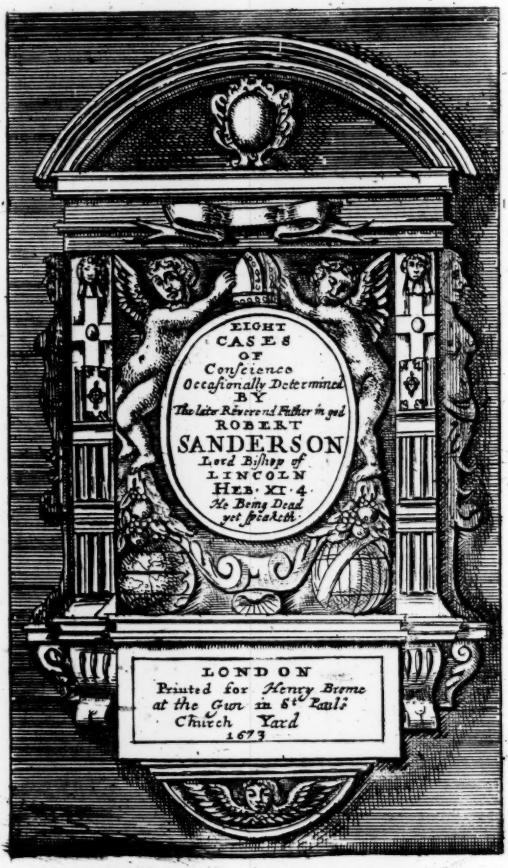
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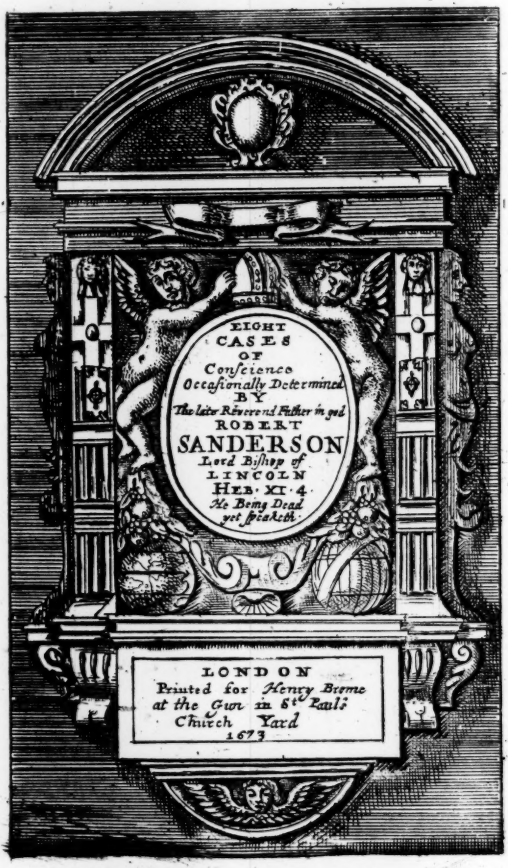
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EIGHT CASES OF Conſcience:

Occaſionally Determined

BY

The late Reverend Father in GOD,

ROBERT SANDERSON,

Lord Biſhop of LINCOLN.

HEB. xi. 4.

He being Dead, yet ſpeaketh.

LONDON:

Printed for *Henry Brome, James Collins* and *Chriſtopher Wilkinſon.* 1674.

Cases
Conclusions
Finally Determined

By ROBERT SANDERSON,
of Lincoln.

A LETTER from a Friend concerning the enſuing *CASES.*

SIR,

HAving perus'd the Papers you ſent me, I can ſafely vouch them for Genuine, and not in the leaſt Spurious, by that reſemblance they wear of their Reverend Author; and therefore you need not fear to bring them to the Publick Teſt, and let them look the Sun in the face.

'Tis true, their firſt Commiſſion was but ſhort, and long ſince expired, they being deſigned only to viſit and reſpectively ſatisfie ſome private Friends; yet I cannot ſee what injury you will offer to his ſacred aſhes, if, by renewing that, you ſend them on a little farther Embaſſie for the common good.

Indeed the leaſt remains of ſo matchleſs a Champion, ſo invincible an Advocate in foro Theologico, *like the filings and fragments of Gold, ought not to be loſt; and pity the world was not worthy many more of his learned Labours.*

But — Præstat de Carthagine tacere quàm pauca dicere, *far be it from me to pinion the wings of his Fame, with any rude Letters of Commendation; or, by way of precarious Pedantry, to court any man into a belief of his worth, since that were to attempt* Iliads *after* Homer, *and spoil a Piece done already to the life by his own Pencil, the works whereof do sufficiently* praise him in the gates

All I aim at is, to commend and promote your pious intention, to give the world security, by making these Papers publick, that they shall never hereafter stand in need of any other hand to snatch them out of the fire, a doom (you say) once written upon them.

I have no farther trouble to give you, but to thank you for those excellent Pieces of the same Hand and Stamp (as every Intelligent Reader will easily discern) with which as an accession to this Edition, your Care and Piety hath obliged the Publick: Only again let me bespeak your vigilance over the Press, which by her daily teeming and expertness, or (at least) negligence of the Midwife, is wont of late to spoil good births with monstrous deformities, and unpardonable Errata; *so you will avoid a double guilt contracted by some without fear or wit, of abusing your critical Reader on the one hand, and your most judiciously exact Writer on the other; and (if that may contribute any thing more) very much gratifie the most unworthy of his Admirers.*

The

The Eight Cases Determined.

I. *Of the Sabbath* 1
II. *Of Marrying with a Recusant* 20
III. *Of Unlawful Love* 30
IV. *Of a Military Life* 59
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VIII. *Of a Rash Vow* 134

Imprimatur,

John Hall, R.P.D. Episc.
Lond. à Sac. Domestic.

May 30. 1665.

ERRATA.

PAge 5. line 7. read *not at all*, p. 6. l. penult. dele *ſo long as*, p. 15. l. 12. r. *change*, p. 2. l. ult. r. *wiſh*, p. 23. l. 16. r. *ſhe*, ibid. l. 22. r. *it is*, p. 32. l. 4. r. *unto*, p. 42. l. 24. dele *of*, p. 43. l. 10. r. *married*, p. 45. l. 21. r. *ſayings*, ibid. l. 24. r. *muta*, p. 51. l. 7. r. *Premiſſes*. p. 52. l. 9. r. *to whom*, ibid. l. 25. r. *ſhould*, p. 53. l. 23. r. *with all*, p. 56. l. 12. r. *haply*, p. 57. l. 23. r. *herſelf*. ibid. l. ult. r. *he*, p. 67. l. 3. r. *doth but*, p. 72. l. 12. r. *artis*, ibid. l. 17. r. *nearer*, p. 84. l. 19. r. *mediations*, p. 86. l. 11. r. *a Prince*, ibid. l. 26. after *right*; add *belongeth to him*; *and another to* aſſume *a* power *that of right*, p. 96. l. 23. r. *or what means*, p. 99. l. 5. for *to* r. *do*, p. 106. l. 7. r. *whereunto*, p. 107. l. ult. dele *in*, p. 119. l. 13. dele *to*, p. 120. l. 23. dele *the*, p. 136. l. 19. r. *maketh*, p. 137. l. 4. r. *parts*, p. 141. l. 21. r. *voideth*, p. 142. l. 6. r. *place*.

The Case of the Sabbath.

To My very Loving Friend Mr. Tho. Sa. *at* S. B. *Nottingh.* March 28. 1634.

SIR,

WHen by your former Letter, you desired my present Resolution in two Questions therein proposed concerning the Sabbath: although I might not then satisfie your whole desire (being loath to give in my opinion before I had well weighed it) yet that I might not seem altogether to decline the task imposed on me by you, I engaged my self by promise, within short time, to send you what upon further consideration I should conceive thereof. Which promise, so far as my many distractions and occasions would permit, I endeavoured to perform by perusing the Books you sent me, (in the one whereof, I found written on the spare paper with your hand, a Note moving a third Question, about the Name of the Sabbath also;) and by look-

looking up, and reviewing ſuch ſcattered Notes as I had touching that Subject. But then I met with difficulties ſo many and great (whereof the more I conſidered, the more ſtill I found them to encreaſe) that I ſaw it would be a long work, and take up far more time then I could ſpare, to digeſt and enlarge what ſeemed needful to be ſaid in the three Queſtions in ſuch ſort as was requiſite, to give any tollerable ſatisfaction either to my ſelf or others. Wherefore I was eftſoons minded to have excuſed my ſelf by Letter to you, from farther medling with theſe Queſtions, and to have remitted you over for better ſatisfaction to thoſe men, that have both better leiſure to go about ſuch a buſineſs, and better abilities to go through with it than I have; for to queſtions of importance, better nothing be ſaid, than not enough: And the rather was I minded ſo to do, when I perceived there were rumors ſpread in theſe parts, (occaſioned, as I verily ſuppoſe, by ſome ſpeeches of your good friend Mr. *Tho. A.*) as if I were writing a Treatiſe of the morality of the Sabbath. Which beſides that, it might raiſe an expectation of ſome great matters which I could in no wiſe anſwer; it might alſo expoſe that little I ſhould

should have done to the mis-censures of men wedded to their own opinions, if after I had laid mine open, it should have happened in any thing (as in some things like enough it would) to have disagreed from theirs. Yet, because by your late kind Letter, (wherein, whilst I was slack in making it, you have prevented mine excuse,) I perceive the continuance of your former desire; I have therefore since resolved to do somewhat, though not so much as I first intended, hoping that you will in friendly manner interpret my purpose therein. I have therefore now sent you but a naked summary of my thoughts concerning the three Questions, abstracted from all those Explanations, Reasons, Testimonies of Authors, removals of Objections, and other such Enlargements as might have given further both lustre and strength thereunto.

Howsoever, by what I presently send, you may sufficiently see what my opinion is; which I shall be ready to clear, so far as my understanding will serve, in any particular wherein you shall remain doubtful; and as ready to alter when any man shall instruct me better, if he bring good evidence either of Reason, or of Scripture-Text for

what he affirmeth: The Questions are,

1. Which is the fittest Name whereby to call the day of our Christian weekly-rest? whether the Sabbath, the Lord's-day, or Sunday?

2. What is the meaning of that Prayer appointed to be used in our Church; [*Lord have Mercy upon us, and encline, &c.*] as it is repeated after, and applied to the words of the fourth Commandment?

3. Whether it be lawful to use any bodily recreation upon the Lord's-day? and if so, then what kind of Recreations may be used?

I. Concerning the Name *Sabbatum*, or Sabbath, I thus conceive;

1. That in Scripture, Antiquity, and all Ecclesiastical Writers, it is constantly appropriated to the day of the Jews Sabbath, or Saturday; and not at all (till of late years) used to signifie our Lord's-day, or Sunday.

2. That to call Sunday, by the name of the Sabbath-day, (*rebus sic stantibus*) may for sundry respects be allowed in the Christian Church without any great inconveniency: and that therefore men (otherwise sober and

mode-

moderate) ought not to be cenſured with too much ſeverity, neither charged with Judaiſm, if ſometimes they ſo ſpeak.

3. That yet for ſundry other reſpects it were perhaps much more expedient, if the word Sabbath (in that notion) were either not at all, or elſe more ſparingly uſed.

II. Concerning the name *Dominica*, or the Lord's-day:

1. That it was taken up in memory of our Lord Chriſt's Reſurrection, and the great work of our Redemption accompliſhed therein.

2. That it hath warrant from the Scripture, (*Apoc.* 1. 10.) and hath been of long continued uſe in the Chriſtian Church, to ſignifie the firſt day of the week, or Sunday.

III. Concerning the name *Dies Solis*, or Sunday.

1. That it is taken from the courſes of the Planets, as the names of the other daies are: the reaſon whereof is to be learned from Aſtronomers.

2. That it hath been uſed generally, and of long time, in moſt parts of the World.

3. That it is not juſtly chargeable with Heatheniſm; and that it proceedeth from

much weakneſs at the leaſt, (if not rather ſuperſtition) that ſome men condemn the uſe of it, as prophane, heatheniſh, or unlawful.

IV. Of the fitneſs of the aforeſaid three names compared one with another.

1. That according to the ſeveral matter or occaſions of ſpeech, each of the three may be fitter in ſome reſpect, and more proper to be uſed than either of the other two; As, *viz.*

1. The Name *Sabbath*: when we ſpeak of a time of reſt *indeterminatè*, and in general, without reference to any particular day: and the other two, when we ſpeak determinately of that day which is obſerved in the Chriſtian Church. Of which two again.

2. That of the *Lord's-day* is fitter, in the Theological and Eccleſiaſtical; and,

3. That of *Sunday*, in the civil, popular, and common uſe.

2. Yet ſo as that none of the three be condemned as utterly unlawful, whatſoever the matter or occaſion be, but that every man be left to his Chriſtian liberty herein, ſo long ~~as ſo long~~ as ſuperior Authority doth not reſtrain it. Provided ever, that what he

he doth herein, he do it without vanity or affectation in himself, or without uncharitably judging or despising his Brother that doth otherwise than himself doth.

To the second Question.

V. The words of that Prayer, [*Lord have mercy, &c.*] repeated after the fourth Commandment, do evidently import, as they do in each of the other ten.

1. An acknowledgment of three things, *viz.*

1. That the words of that particular Commandment contain in them a Law, whereunto we are subject.

2. That it is our bounden duty to endeavour with our uttermost power to keep the said Law.

3. That our naughty hearts have (of themselves) no inclination to keep it, until God, by the work of his Grace, shall encline them thereunto.

2. A double supplication, *viz.*

1. For mercy, in respect of the time past, because we have failed of our bounden duty heretofore.

2. For Grace, in respect of the time

to come, that we may perform our duties better hereafter.

VI. But how far forth the words of the fourth Commandment are to be taken as a Law binding Christians, and by what authority they have that binding power, is the main difficulty.

For the resolution whereof, it may suffice every sober minded Christian, to understand the Prayer appointed by the Church, in that meaning which the words do immediately import; and without over-curious inquiry into those things that are more disputable, to believe these few points following, which ought to be taken as certain and granted amongst Christians; *viz.*

1. That no part of the Law delivered by *Moses* to the Jews, doth bind Christians under the Gospel, as by vertue of that delivery; no, not the ten Commandments themselves, but least of all the fourth, which all confess to be (at least) in some part Ceremonial.

2. That the particular determination of the time to the seventh day of the week, was Ceremonial. And so the obligation of the fourth Commandment in that respect, (although it were *Juris divi-*

ni

ni positivi to the Jew, yet) is ceased together with other legal Ceremonies since the publishing of the Gospel, and bindeth not Christian Consciences.

3. That the substance of the fourth Commandment in the general, (*viz.* that some certain time should be set apart from secular imployments, to be sanctified to an holy rest, for the better attending upon God's publick and solemn worship) is moral and perpetual, and of Divine right, as a branch of the Law of Nature, whereunto Christians under the Gospel are still bound.

4. That *de facto*, the Lord's-day, or Sunday, is the time appointed to us for that purpose by such sufficient Authority, as we stand bound in Conscience to obey: *absq; hoc*, whether that Authority be immediately Divine, or but mediately through the power of the Church.

This is sufficient to regulate the judgment and Conscience of every ordinary Christian; yet is it not unlawful for Scholars (soberly and fairly) to argue and debate a little farther matters which are questionable, for the better finding out of the Truth.

And the points in this Argument that are most

most in controversy, are these two, *viz.*

1. Concerning the observation of a weekly Sabbath; whether it be of necessity to keep one day of every seven? And by what right we are tied so to do?

2. Concerning the change of the Jewish Sabbath into the Lord's-day; and by what Authority it was done.

VII. As touching the observation of a weekly Sabbath; there are these three different opinions, *viz.*

1. That it is *de jure naturali*, as a branch properly of the Law of Nature.

2. That it is properly and directly *de jure divino positivo*; established by God's express positive Ordinance in his Word.

3. That it is meerly *de jure humano & Ecclesiastico*; introduced by Authority, and established by the custom and consent of the Catholick Church.

Touching which three opinions, I leave it to the judicious to consider.

1. Whether the last of them might not hap to be of evil consequence, by leaving it in the power of the Church, at her pleasure to change the old proportion of one in seven, (which hath continued ever since the daies of *Moses*) into any other greater or lesser proportion of time? 2. Whe

2. Whether the two former opinions (though they do indeed avoid that inconvenience) do not yet stand upon such weak grounds otherwise, that they are by many degrees more improbable than the third?

3. Whether a fourth opinion going in a middle way, might not be proposed with greater probability, and entertained with better safety than any of the former three? *viz.* That the keeping holy of one day in seven, is of Divine positive right, taking *jus divinum* in a large signification: not for that only which is primarily, properly, and directly such, according to the tenor of the second opinion; but including withal that which is Secondarily, Consequently, and Analogically such.

VIII. For the better understanding whereof, we are to consider;

1. That those things are *de jure divino* in the first and strict sense: which either,

1. Are enjoyned by the express Ordinance and Commandment of God in his holy Word; or else,

2. May be deduced there-from by necessary, evident, and demonstrative illation.

In which sense, there are not many things

de

de jure divino under the New Testament.

2. That for a thing to be *de jure divino* in the latter and larger sense, it sufficeth that it may be by humane Discourse upon reasons of Congruity probably deduced from the Word of God, as a thing most convenient to be observed by all such as desire unfeignedly to order their waies according to God's holy Will.

3. That this kind of *Jus divinum* may be reasonably discerned by the concurrence of all, or the chiefest of these four things following, *viz.*

1. A foundation of Equity for the thing in general, either in the Law of Nature, or by vertue of Divine Institution.

2. An Analogie held for the particular determination, with such Laws and directions as were given to the Jewish people in the Old Testament, so far as the reason of Equity holdeth alike.

3. Some probable insinuations thereof in the Scriptures of the New Testament.

4. The continued practise of the Christian Church, so far as the condition of the times in the several Ages thereof would permit. For, *Lex currit cum praxi.*

4. That

4. That all these do in some measure concur for the observation of a weekly Sabbath; as upon the examination of the several particulars will easily appear.

IX. This distinction of *Jus divinum* is to be observed the rather, because it may be of very good use, (if rightly understood and applied.)

1. For cutting off the most material instances, which are usually brought by the Romish Party for the maintenance of their unwritten Traditions.

2. For the clearing of some, and the silencing of other some Controversies in the Church, which are disputed *pro* and *con* with much heat; as, *viz.* concerning,

1. The Government of the Church by Bishops.

2. The Distinction of Bishops, Priests and Deacons.

3. The Exercise of Ecclesiastical Censures, as Suspension, Excommunication, *&c.*

4. The Building and Consecrating of Churches for the service of God.

5. The assembling of Synods upon needful occasions, for the maintenance of the Truth, and for the setling of Church Affairs,

The

6. The forbidding of Marriages to be made within certain degrees of Consanguinity and Affinity.

7. The Baptizing of Infants born of Christian Parents.

8. The maintenance of the Clergy by the Tithes of the people, and sundry other things: none of all which (to my understanding) seem to be *de jure divino* in that first and proper sense; but yet all (or most) of them to be *de jure divino* in this latter and larger signification.

3. For the right bounding of the Churches power, that she be neither denied her lawful liberty in some things, nor yet assume to her self a greater power than of right belongeth unto her in other some. For,

1. In things that are meerly *de jure humano*; every particular Church hath power in her self from time to time, to order, and alter them at her pleasure, and may exercise that power when she thinketh fit.

2. Things that are *de jure divino* in that first sense, the Universal Church may not (and much less then may any particular) at all take upon her to alter, but must observe them inviolably, whatsoever necessi-

ceſſities or diſtreſſes ſhe be put unto.

3. Things that are *de jure divino* in this latter ſenſe; every particular Church (but much more the Univerſal) hath a power to alter in a caſe of neceſſity: But the exerciſe of that Power is ſo limited to extraordinary caſes, that it may not be ſafe for her at all to exerciſe it; unleſs it be for the avoiding of mighty inconveniences, not otherwiſe to be avoided.

X. As for the other controverſed Point, touching the change of the day, from the laſt day of the week, or Saturday, (which was the Jews Sabbath) to the firſt day of the week, or Sunday, which is our Lord's-day: My opinion is, that the obſervation of the Lord's-day among Chriſtians inſtead of the Jewiſh Sabbath,

1. Is not grounded upon any commandment given by Chriſt to his Apoſtles.

2. Nor yet upon any Apoſtolical Conſtitution given by the Apoſtles unto the Churches in that behalf. But,

3. That it was taken up by the ſucceeding Church; partly in imitation of ſome of the Apoſtles, who uſed (eſpecially in the Churches of the Gentiles; for in the Churches of *Judea* the old Sabbath was ſtill obſerved)

ſerved) to Celebrate their Holy Aſſemblies upon the firſt day of the week, in the honour of Chriſt and his Reſurrection; and partly for the avoiding of Judaiſm, wherewith falſe Teachers in thoſe firſt times were ever and anon attempting to enthral the Chriſtian Church.

4. That the obſervation of the Lord's-day, having been confirmed by ſo many Conſtitutions both Eccleſiaſtical and Imperial, and having withal continued with ſuch uniform conſent throughout the whole Chriſtian World, for ſo many Ages ever ſince the Apoſtles times; the Church (not to diſpute what ſhe may or may not do *in plenitudine poteſtatis*, yet) ought not to attempt the altering of it to any other day of the week.

To the third Queſtion.

XI. In this matter touching Recreations to be uſed on the Lord's-day, much need not be ſaid, there being little difficulty in it, and His Majeſties laſt Declaration in that behalf having put it paſt Diſputation. I ſay then,

1. *For the Thing.* That no man can reaſonably condemn the moderate uſe of lawful

ful Recreations upon the Lord's-day, as simply, and *de toto genere* unlawful.

2. *For the Kind.* Albeit there can be no certain rules given herein, (as in most indifferent things it cometh to pass) by reason of the infinite variety of circumstances, to fit with all particular cases, but that still much must be left to private discretion: yet for some directions in this matter, respect would be had in the choice of our Recreations.

1. To the Publick Laws of the State. Such games or sports as are by Law prohibited, (though in themselves otherwise lawful) being unlawful to them that are under the obedience of the Law.

2. To the condition of the Person. VValking and discoursing with men of liberal Education, is a pleasant recreation; it is no way delightsom to the ruder sort of people, who scarce account any thing a sport which is not loud and boysterous.

3. To the effects of the Recreations themselves. Those being the meetest to be used, which give the best refreshing to the body, and leave the least impression in the mind. In which respect, Shooting, Leaping, Pitching the Bar, Stool-ball, &c.

are rather to be chosen than Dicing, Carding, *&c.*

3. For *the Use.* That men would be exhorted to use their Recreations and Pastimes upon the Lord's-day in godly and commendable sort. For which purpose, amongst others, these cautions following would be remembred.

1. That they be used with great moderation (as at all other times, so especially, and much more) upon the Lord's-day.

2. That they be used at seasonable times, not in time of Divine Service, nor at such hours as are appointed by the Master of the house whereunto they belong, for Private Devotions within his own house. His Majesties Declaration limiteth mens liberty this way, till after Even-song be ended.

3. That they be so used, as that they may rather make men the fitter for God's Service the rest of the day, and for the works of their Vocations the rest of the week, than any way hinder or disable them thereunto, by over-wearying the body, or immoderately affecting the mind.

4. That

4. That they use them not doubtingly, for whatsoever is not of Faith, is sin. He therefore that is not satisfied in his own judgment, that he may lawfully, and without sin, use bodily recreations on the Lord's-day, ought by all means to forbear the use thereof, lest he should sin against his own Conscience.

5. That they be severer towards themselves than towards other men in the use of their Christian liberty herein, not making their own opinion or practise a rule to their brethren. In this, as in all indifferent things, a wise and charitable man will in godly wisdom deny himself many times the use of that liberty, which in godly charity he dare not deny to his Brother.

The CASE of

Marrying with a Recusant.

SIR,

YOurs of *July* the 2d. I Yesterday *July* the 6th. received. In Answer to the Contents whereof (desiring that my Services may withal be most humbly presented to my very much Honoured Lord) I return you what my present thoughts are concerning the particulars therein proposed. First, for Marrying a Daughter to a professed *Papist* (considered in *Thesi*, and as to the point of Lawfulness only) I am so far from thinking the thing in it self to be simply, and *toto genere*, unlawful; that I dare not condemn the Marriage of a *Christian* with a *Pagan* (much less with any other *Christian*, of how different Perswasion soever) as simply evil and unlawful, inasmuch as there be Causes imaginable, wherein it may seem not only Lawful, but expedient also, and (as the exigence of Circumstances may be supposed) little less than necessary so to inter-marry. But since things lawful in the General, and

in

in *Thesi*, may become (by reason of their inexpediency) unlawful *pro hic & nunc*; and in *Hypothesi* to particular persons; and that the expediency or inexpediency of any action to be done, is to be measured by the worthiness of the end, the conjuncture of present Circumstances, and the probability of good or evil consequents and effects, prudentially laid together, and weighed one against another; I conceive it altogether unsafe for a Conscientious person (especially in a business of so great concernment, as the Marrying of a Child) to proceed upon the General Lawfulness of the thing, without due consideration of Circumstances, and other requisites for the warranting of particular Actions. Now, as for the Marriage of a Daughter with one of so different Perswasion (in point of Religion) as, that they cannot joyn together in the same way of God's Worship, which is the case of a Protestant and a Papist, it is very rare to find such a concurrence of Circumstances, as that a man can thence be clearly satisfied in his Judgment (without just cause of doubting the contrary) that it can be expedient to conclude upon such a Marriage; and how dangerous a thing it is to do any thing without

~~out~~ a *doubting Conscience*, we may *learn* from *Rom.* 14. 13.. For the *evil consequents* probably to ensue upon such Marriages, are so many and great, that the conveniences which men may promise to themselves from the same (if they should answer expectation, as seldom they do to the full) laid in an equal ballance there-against, would not turn the scale; and in one respect the danger is greater to marry with a Papist, than with one of a worse Religion; for that the main Principle of his Religion, (as a *Papist*) is more destructive of the comfort of a Conjugal Society, than are the Principles of most Hereticks; yea, than those of *Pagans*, or *Atheists*; for holding that there is no Salvability but in the Church; and that none is in the Church, but such as acknowledg Subjection to the See of *Rome*; it is not possible, but that the Husband must needs conclude his Wife to be in the *state of Damnation*, so long as she continueth *Protestant*: whence one of these two great inconveniences will unavoidably follow; that either he will use all endeavors, engins, and artifices, to draw her to the Church of *Rome*, (as indeed who can blame him to bring his Wife into a capacity of everlasting Salvation?) the restless

less importunity whereof (together with the ill advantages they of that party can make from the sad Confusions that are amongst us in these times) it will be very hard for one of the weaker sex perpetually to resist; or else in case she stand firm in her Religion against all Assaults and Attempts to the contrary, whatsoever he may be towards her in outward carriage, he cannot but in his inmost thoughts, pass judgment upon her, as an obstinate and desperate Heretick, and (so living and dying) an accursed and damned Creature. These are sad things both; and it is not conceivable how a Woman so matched should live with any comfort, or ever hope to see a good day, wherein she shall not either be tempted from her Religion, or censured for it; what assurance can she have of his good affections towards her, who is bound not to permit any better opinion of her, than of a Reprobate and Cast-a-way? Is it possible there may be so much good nature in the Husband, as to take off somewhat from that rigidness, which otherwise the Principles of his Religion would bind him to, or so much discretion, sweetness, and obligingness in the Wives demeanor towards him, as to preserve a

good measure of Conjugal Affection between them, notwithstanding their different Perswasions: This I say, is possible; and where it happeneth so to be, it rendereth the condition of the Parties so much the less uncomfortable; and that is the utmost of the *happiness* that is to be hoped for from such Marriages: and I think there cannot be produced many examples thereof; yet even there, there cannot be that cordial Affection, and fulness of Complacency (wherein yet the chiefest happiness of Conjugal Society consisteth) that would be, if the same Parties (supposed to be of the same Qualifications otherwise) were also of the same Religion. I omit other *œconomical* differences, that may, and very frequently do (occasionally) arise, betwixt Husband and Wife from this difference in Religion, as concerning the Entertainment of Friends, the choice of Servants the education of Children (very considerable things all) besides sundry others perhaps of less moment; yet such as are apt to breed Discontents and Jealousies, and sometimes break out into great Distempers in the Family: Such Marriages therefore I should utterly dissuade; especially in the *Nobility*, *Gentry*, and *Commonalty*,

nalty, where there is choise enough otherwise to be had of Persons of equal Degree, Estate, and Education of the same Religion to match withal: Kings and Princes for reasons of State, and because there is little choice of Persons of equal Dignity with themselves, are therefore oftentimes by a kind of necessity, put upon such Marriages; yet even there, where they are certainly the most excusable, it hath been observed, that such Marriages have proved for the most part unfortunate.

The other Particular proposed in your Letter, is concerning the *Mariage of a Daughter to one that professeth the Protestant Religion, but having had Popish Parents, may be suspected (though he deny it) to be that way inclined.* The resolution whereof (as of most other *Cases*, and *Practical Questions*) will depend very much upon the consideration of *Circumstances*, whereunto being altogether a stranger, I am less able to give Judgment in the Case with any certainty; only in order to the resolution of the question, these (to my understanding) seem to be the most proper and important Enquiries.

First, whether the Parents of the young Person be living or no, one or both? if both be

be dead, the *Temptations* from them (which in such *Cases* are wont to prevail very much) are by their Death clearly *superseded*; and then the danger is by so much less: but if either be living, there can be little security of the Sons *continuance* in the *Protestants Belief*, (notwithstanding his present Profession thereof) when he shall be *assaulted* with the *whole Authority* of them, to whom he oweth *Reverence*.

Secondly, with what degree of *Confidence*, and with what kind of *asseverations* he *professeth* the *one*, and *denieth* the *other Religion*; for although they out of *design* put on a counterfeit vizor, use all the art they can to *dissemble it*; yet very seldom can it be done so *cunningly*, *warily*, and *constantly*, but that at some time or other, the *dissimulation* will unawares bewray it self to the *eye* of a *curious observer*.

Thirdly, what measure of understanding the young Person (who is, you say, of *great Abilities* for his Age) hath in the *Fundamental Articles* of the *Christian Religion*; those I mean, wherein the *English* and *Romish Churches* are at *agreement*, for in *those* the *substance* of *Christianity consisteth*; he that rightly understands those *Catholick Truths* taught in the

the *Catechisms* of both Churches, and concerning which all *Christendom* (in a manner) are at a *perfect accord*; and then will but suffer himself to consider, that the *Church* of *England* doth not *impose* upon the *judgments* and *consciences* of her *Members*, any thing to be *believed*, or received, as of *necessity* to *Salvation*, than what is *truly Catholick*, and by her Adversaries confessed so to be; and consequently, that the *difference* betwixt *her* and the *Romish Party*, is wholly about those *Additionals* or *Superstructures*, which they of the *Roman Faith* require to be *believed*, and *received* with like *necessity* as the *former*; but appear to us of this *Church respectively*, either *evidently false*, or of *doubtful truth*, or not of *absolute necessity* to be *believed*: I say, whosoever well considereth this, may rest *satisfied* in his *judgment* and *conscience*, that the *Faith taught* and *professed* in the *Church* of *England*, is a *plain* and *safe way* to lead a *Christian Believer* to *Eternal Salvation*, if he withal lead his *life* and *conversation* answerable thereunto.

To the last particular in your Letter, all the return I have to make, is no more but an humble acknowledgment and sense of his *Lordships* noble favors towards me, in entertaining

taining an opinion of me more suitable to his own goodness and ingenuity, than to my merit: I know not, nor desire to know of any occasions likely to draw me into those parts so distant from me (being grown into years, and infirmities, that render me very unfit for long Journeys) unless the business of my *Sons Marriage*, which occasion'd my late Journey to *London*, require a second thither in *Michaelmas Term*. But I am so sensible both of the trouble and charge of such Journeys (besides some inconveniences to my affairs at home, whilst I am long absent) that I will avoid it, unless there be no other remedy: I shall not *willingly decline* any employment (within my low and narrow sphere, both of outward condition and parts) wherein my *service* may be any waies *useful*, or but *acceptable*, to that *noble* and *excellent Person*: but truly Sir, I conceive there will be little need of my further *endeavors*, as to that particular expressed in yours, whether what I have written now, give *satisfaction*, or *not*; there are *persons* nearer hand, whom I know to be *much fitter* for an *employment* of that *nature*, than *my self*, who have ever studied *Peace* more than *Controversies*; and namely, one at the next door to *Hatton-House*,

House, whose *sufficiency* and *readiness* in that kind is well known to Mr. *Geoffery Palmer*. Sir, I wish you *Happiness*, desire your *Prayers*, and rest,

July, 7. 1656. *Your Faithful and*

Humble Servant,

The

The CASE of UNLAWFUL LOVE.

TWO Gentlemen who were very good Friends, and both of them Married, used to converse together familiarly; one of these took a special liking in the company and conversation of the others Wife, and she answerably in his; which afterwards proceeded to some degree of Love; which, though ever restrained, and preserved without any violation of Chastity, grew yet in the end to this issue, that they mutually vowed either to other; that if happily either of them should at any time be freed from the Bond of Matrimony (either he by the death of his Wife, or she by the death of her Husband) that party so freed should continue afterwards unmarried, and stay for the other, till the other should be freed also, though it were during life: Now so it is, that this Gentlewomans Husband died, and her affections and resolution so altered, that gladly she would Marry, if she might be released of the Engagement of that Vow; or perswaded of the unlawfulness or nullity thereof.

Con-

Concerning the present Case, as it is propounded, sundry Points are needful to be resolved, that so we give a right judgment *de præterito*, of what is already done for the time past, in respect of the Gentlewomans *former promise*, and sound direction also *de futuro*, which is further to be done for the time to come, in respect of her present distresses.

Point I.

Sect. 1. First of all, It is considerable, whether the promise made by the Gentlewoman and her friend, were properly a Vow or no? so it is called in the proposal of the present *Case*, and that agreeable to the common use of speech with us here in *England*, who extend the word [*Vow*] very far; neither shall I make scruple in the ensuing *Discourse*, sometimes to call it so; for *Loquendum ut Vulgus*. But to speak properly, a *Vow* is a word of a narrower extent than a *Promise*, every *Vow* being indeed a *Promise*, but not every *Promise* necessarily a *Vow*; (a) *Promises* may be made *indifferently*, either to *God*, or *Men*; but *Promises* made to *Men* are no *Vows*:

(a) *Votum soli Deo fit, sed Promissio potest fieri etiam Homini.* Aquit. 2. 2. q. 88. 5. ad. 3.

where-

wherefore it is usually inserted into the definition of a *Vow*, as a condition (*b*) *essentially requisite* thereunto, that it be made unto *God* alone, insomuch as to make a *Vow* to any Creature, is *interpretative* to exalt the Creature into the place of God, and so to make it an *Idol*, which is clear, not only from the (*c*) *expres's Precept* of *God*, and the *constant* (d) *examples* of *godly men*, and the *usual* (e) *phrases* of the *Holy Ghost* in the *Scriptures*; but also from the *universal consent* of all *learned men*, both *Divines* and *others*, and even of (f) *Heathens* also: This Gentlewomans *promise* then being made to the Gentleman her Friend *alone*, as was his also to her, and neither of both to God, is therefore to be taken for a *meer Promise*, but no *Vow*.

(b) *Promissio Deo facta est essentia voti*, Ibid.

(c) Psal. 76. 11.

(d) Numb. 21. 2. Judg. 11. 30. 1 Sam. 1. 11. 25.

(e) Judg. 11. 36. Psal. 56. 11.

(f) *Sponsio quâ obligamur Deo.* Cic. 2. Leg.

Sect. 2. If for more confirmation thereof, she bound her self also by *Oath*, as it is not unlike, yet it is no more for all that but a *meer promise* still, and not a *Vow*; for albeit the very using of an Oath be a *calling in of God*

God into a buſineſs, and the *perſon* that taketh an *Oath* doth thereby ſet himſelf in the *preſence of God*; yet an *Oath* calleth him in only to be (a) a *witneſs*, without any intent to make him a *party* to the *buſineſs*, whereas in a *Vow* he is made a *party*, and not only a *witneſs*; whereunto agree thoſe forms ſo frequent in *holy Scripture*, in Oaths both *aſſertory*, and *ſtipulatory*; (b) *The Lord be witneſs between us*: (c) *God is my witneſs*: (d) *I take God to Record*, and the like: for even as when a *promiſe* is made unto God, whereunto for the more *ſolemnity*, the *preſence* of ſome men is required as *Witneſſes*, ſuch a *Promiſe* is to be held for a *Vow*, becauſe it is made to God *alone*, although in the *preſence* of Men: So on the other ſide, when a *Promiſe* is made unto *ſome Man*, whereunto for the *more aſſurance*, the *preſence* of God is required as a *witneſs*, ſuch a *Promiſe* is not to be held for a *Vow*, becauſe it is made unto Man *alone*, although in the *preſence* of God.

(a) *Jurare nihil eſt aliud quàm Deum Teſtem invocare.* Aq. 2. 2. qu. 89. 1. ex *Aug. de ver. Apoſt. Serm.* R. 28. *quod affirmas, ſi Deo Teſte promiſeris, id tenendum eſt*, Cic. 3. de Offic.

(b) Gen. 31. 50. Judges 11. 10. Mal. 2. 14. (c) Rom. 1. 9. 1 Theſ. 1. 5. (d) 1 Cor. 1. 23. Phil. 1. 28.

Sect. 3. Nay further, if the Gentlewoman when she thus *engaged* her self, did use these very words [*I VOW TO GOD*] or words to that effect, as we know is often done in *solemn Promises* between man and man; yet neither is that sufficient to make it properly a *Vow*; for to judg rightly when question is made concerning any particular *promise*, whether it be a *Vow* yea or no; we are not to be guided so much by the *forms* of *speech*, (which are subject to change, impropriety, and many defects) as by the true intention and purpose of the *parties*, especially the *Promiser*. Now, what was the whole *intent* and *purpose* of these *Parties*, when they mutually bound themselves in such sort, as in the *Case propounded* is laid down, no reasonable man can be ignorant; even this and no other, to give as good *assurance* as they could *devise*, either to other, and to receive the like *assurance* again, that the *thing* by them *agreed on*, and *promised*, should be *faithfully performed*; and if either *Oaths* or *Protestations* were also *used* by way of *Confirmation*, they are all in *common intenament* to be taken as *tending* to the *self-same purpose*, without looking at any further thing; & clearly where the *Promiser* hath no intention to *bind* himself

ſelf to *God*, but to *Man* only, the *Promiſe* ſo made is no *Vow*, whatſoever *formality of words* may be uſed in the making of it.

Sect. 4. Neither is the *examination* of this Point a *curioſity* either in it *ſelf fruitleſs*, or *impertinent* to the *Caſe in hand*; for albeit, in that which ſeemeth to be the very *main point* of all, *viz. the power of binding the Conſcience*, there be no *material difference* between a *Vow*, and an *ordinary Promiſe*; a *lawful Promiſe* no leſs *binding* unto performance, than a *lawful Vow*; and an *unlawful Vow* no more *binding* than an *unlawful Promiſe*: yet there is ſome *difference* between them, and that of *ſome importance too*, in reſpect of the *relaxation* of that *Bond*; for ſince it belongeth to *him* to whom a *bond* is made, to grant a *releaſe* thereof: It belongeth therefore to *God alone* to *releaſe* the *obligation* of a *Vow*; and no man hath power ſo to do, becauſe the *Vower* by his *Vow*, bindeth himſelf to *God*, not to *Man*; whereas the *obligation* of a *meer Promiſe*, wherein the *Promiſer* bindeth himſelf but to *ſome Man*, may be *releaſed* by *that Man*; and a *releaſe* from him is to the *conſcience* of the *Promiſer* a *ſufficient diſcharge* from the ſaid *obligation*: which Conſideration of what *uſe* it will be in the

present Case, will in the due place further appear. In the mean time we have *evidently proved*, that this Gentlewoman *bound herself* by *Promise* only, and not by *Vow*.

Point II.

Sect. 5. We are next to enquire concerning the *validity* thereof; whether or no the Gentlewoman (a) *having an Husband* at that time, were so *disabled* in that respect from making such a *promise*, that the *promise* then made by her, without the *Husbands consent*, was *utterly void* from the very beginning: For the Wife is under (b) *the Law*, and (c) *under the power of her Husband*, and so is not *sui juris*, nor can bind herself by *Vow*, *Oath*, *Promise*, or otherwise without the *privity* and *consent* of her *Husband*; which consent we may presume this Gentlewoman never had, the *promise* being of that *nature*, that it had been not only *immodesty*, but even *madness*, at all to have sought it. And it is certain from the (d) *Law of God*, by *Moses* (to the equity whereof

(a) Rom. 7. 2. ὕπανδρος γυνή.

(b) Rom. 7. 2.
(c) 1 Cor. 7. 4.

(d) Numb. 30. 3.

whereof *Christians* are still bound, because it's founded upon *right Reason*, and the *light of Nature*) that every *Vow* and *Promise* made by a *person* that of *right* hath not *power* to make it, is *de jure nullum*, altogether void from the first instant, and *bindeth* the Party no more than if it never had been made.

Sect. 6. If any *Scruple* shall arise from this *Consideration*, that albeit the *promise* made by the *Wife* in her *Husbands* life-time, *bind* her, not without his *consent*, so long as he liveth, because she is all that while under his *power*; yet after that she is *loosed* from the *law of her Husband*, by his *death*, it shall thenceforth *bind* her, because she then becometh *sui juris*: I say, this maketh no *difference* at all in the *Case*; for this is a *general Rule*, that *what* (b) *act soever had a nullity in it at the first, when it was done, cannot by any succeeding tract of time grow to be of force.* As if a young Scholar shall be *instituted* to a *Benefice*, being not of *lawful years*; or a young *Heir* make a *sale* of his *Lands* during *minority*, the *institution* and the *sale*, as they were both *void* at the *beginning*, so they shall continue *void*,

(b) *Quod initio vitiosum est, non potest tractu temporis convalescere*, L. 29. *F. de Div. Reg. ju.*

as well after the *Clerk* is of *lawful years*, and the *Heir* at full *age*, as before; so that to judg of the *validity* of any *Vow*, *Promise*, or *Covenant*, respect must be had to (c) that *very time* wherein it was *made*, and to the *present condition* of the *person* at that *time*, and not to any *time* or *condition before* or *after*: If then there were indeed a *nullity* in this Gentlewomans *Vow*, at the *time* when she *made it*, there is a *nullity* in it still; and if it were indeed of no force to *bind* her *then*, neither is it of any force to *bind* her *now*.

(c) *In stipulationibus id tempus spectatur quo contrahimus.* L. 18. F. *eodem.*

Sect. 7. But after due pondering of the *matter*, I rather think, that there was not a *nullity* in the *promise* at the *first*, neither (supposing it had been rightly *qualified* in other respects) was it *void* upon this *ground*; because although she were not *sui juris absolutè*, it is sufficient yet, that she was so *quantum ad hoc*. For a *person* that is under the *power* of another, hath yet *power of himself*, (and so is *sui juris*) to *dispose* of all such things, as by the *free disposal* whereof, the *proper right* of him, under whose *power* he is, is no way *prejudiced*; but in whatsoever may be *prejudicial* to the *other* in any of his *Rights*, he is

juris

juris alieni: neither may *dispose* thereof without the *others consent*; and if such a *person* shall make a *Vow*, or other *Promise* concerning any of those things wherein he is *sui juris*, such *vow* or *promise* shall *stand good*, and is not *void* (though possibly it may be *vitious* in other respects) from the *inability* of the *person* that *maketh it*: As for example, if a *Servant* shall promise to his *own Father*, to *work* with him a day or two in *Harvest*, this *promise*, unless his Master *consent* thereunto, shall be *void*, because the *Master* hath a *right* in the *Servants work*, to which *right* it would be *prejudicial*, if the *Servant* should *dispose* thereof after his own *pleasure*; but if such a *Servant* shall *promise* unto his *needy Father* to *relieve* him from time to time with a *third* or *fourth part* of all such *wages* as he shall receive for his service, this *promise* shall be *good of it self*; neither shall the *Masters consent* be requisite to make it so, because the *Master* hath no right at all in the *Servants wages*; wherein to be *prejudiced* by the *Servants disposing thereof* according to his own mind: Now, forasmuch as the *Husbands right* and *power* over the *Wife ceaseth* together with his *life*, (as the Apostle (*a*) expressly teacheth) and so (*a*) Rom. 7. 23.

cannot be *prejudiced* by any *act* of the *Wife* done after his *Decease*; It is manifest that the Wife is *sui juris* to make a *vow* or *promise* during her *Husbands life-time*, concerning something to be done after his *decease*, in case she *over-live* him, because his *right* will be *expired* before the *performance* of the said *vow* or *promise* be due; as to give instance in a Case not much unlike to this in question: A Wife *estated* upon her Marriage in a *Joynture* or *Annuity* for her life of an 100 *l.* *per Annum*, maketh a *promise* in her Husbands *life-time* to one of her *younger Brothers*, that hath but short Means to allow him thence forward out of the said Estate, 10 *l.* yearly toward his better Maintenance; this *promise* is *void* unless the *Husband consent*, because the performance thereof would prejudice him in that right which he hath during his own life in the *Revenue* of all the *Lands* and *Annuities* estated upon the Wife in *Reversion*; but if such a Wife shall promise to her said Brother to allow him the said yearly sum of 10 *l.* after the decease of her Husband, in case she survive him, this promise is good, though made by the Wife in her Husbands *life-time*, and without his consent, because the Husbands right, (being to

cease

ceaſe before the Promiſe is to be performed) cannot be prejudiced by the performance thereof: And this I find agreeable to the *beſt Caſuiſts*, whoſe peremptory opinion it is, that (b) *Husbands and Maſters cannot diſannul ſuch* Vows *as their Wives and Servants make concerning things to be performed at ſuch times as they ſhall be from under their power.* Which *poſition*, if it be true (and I yet ſee no reaſon why it ſhould not) then doubtleſs this Gentlewomans *Vow* made to *her Friend*, though in the *life-time*, and without the *conſent* of her Husband, was not *originally void* from the inability to make it, upon this reſpect, that ſhe was not *ſui juris* ſo to do.

(b) *Vota uxorum vel ſervorum exequenda illo tempore quo fuerint ſui juris, mariti vel domini non poſſunt irritare.* Nav. Man. Num. 65. *& alios.*

Point III.

Sect. 8. But though I dare not ſay, neither do I think that there was a *nullity* in it, in reſpect of the perſon, to make it *void* that way; yet it cannot be denied, but there was much *obliquity* in it, in reſpect of the matter, to make it otherwiſe *utterly* unlawful: in which Point much need not be ſaid, becauſe

becauſe the truth thereof will ſoon appear; for there was in it manifeſtly a *threefold obliquity*, and thereby alſo a *breach* of three ſeveral Commandments. The firſt obliquity was in reſpect of the unlawful affection from which it proceeded; which being placed upon another than the Husband, and that in ſuch an high degree, as to produce a promiſe of this kind, muſt needs be *vitious*, both for the *object*, and for the meaſure, and ſuch inordinate affection by the Analogy of our Saviours (*a*) expreſſion of the Law, is a violation of the Chaſtity of the heart, and ſo a breach of the Seventh Commandment. The ſecond *obliquity* was, the want of that true *Conjugal love* which ought to be between Husband and Wife, who ought to have a *mutual* (b) complacency and delight the one in the other, and to be (c) ſatisfied at all times with the Love, Comfort, and Society of the one of the other; which Love, if it had been ſo throughly rooted and ſeated in the Gentlewomans heart, as it ought to have been, would have *cruſhed* all motions of *unlawful affection* towards

(a) Mat. 5. 28.

(b) Prov. 5. 18. Eccleſ. 9. 9.

(c) Prov. 5. 19.

a

a Stranger in the *shell*, long before they could grow to such strong Resolutions, as by the making of this *Vow* it appeareth they did; for it is not to be imagined that such a *vow* as this could be made, and really intended to be performed, but we must needs suppose in the parties so *vowing*, a kind of weariness at the least, if not rather some inward loathing of the present *Yoak*; which being contrary to that honour that married persons owe to their yoak-fellows, is so a breach of the Fifth Commandment: A third *obliquity* there was also as a breach of the Tenth Commandment, against those expres words [*Thou shalt not covet thy Neighbours Wife*] every Man and Woman being to *content* themselves with that *lot*, which, by Gods Providence hath befallen them, as in all other things, so especially in that which is of the greatest weight, the lot of Marriage, without coveting or lusting after that which it hath pleased the Wisdom of God already to dispose upon another; this Gentlewomans promise then being such, as (if it should be brought to an impartial Trial before that Tribunal which God hath erected in every ones Conscience, and according to the tenor of that Divine Law, whereof no Chri-

Christian should be ignorant) could not be reasonably acquitted from any one of these sinful *Obliquities*, but not possibly from them all, we may conclude to have been an Act utterly unlawful.

Point IV.

Sect. 9. But because a Man may contract an *Obligation* by an *act* not free from *Obliquity*, as the saying in such Cases is, [*Fieri non debet, factum valet,*] and we have a *Ruled case* for it in the *Covenant*, which the *Princes* of *Israel* made with the *Gibeonites*, which though (b) *sinfully made* at the first, was (c) necessarily to be kept afterwards: We are therefore to enquire into a *Fourth Point*, Whether the Gentlewoman having *de facto* bound her self by such an *unlawful promise*, be still, by virtue of the said *promise*, bound in *Conscience* to the performance thereof, or not? To answer directly to the Point, *I take it, she is not bound thereunto*; for that saying [*Fieri non debet, factum valet*] hath place only there, where the *obliquity* that maketh the *act unlawful*, may be severed from the substance of the *matter*, about which the act is

(b) Josh. 9. 14, &c.
(c) *Ibid.* ver. 19. 2 Sam. 21. 1, 2.

is conversant; as when a man *voweth* to do something, which is not in it self, and for the substance of the matter *simply unlawful* to be done; but yet *voweth* it, either rashly, and without due advertisement, or for some indirect and unwarrantable end, or upon slight and insufficient inducements, or the like, any of these *Obliquities* are enough to make the *vow unlawful*, in respect of the act of *vowing*; yet because these *Obliquities* do not necessarily pass upon the matter it self, or the thing *vowed*, but may be severed from it; therefore, though the *act* of *vowing* were sinful, the *Vow* it self for all that may stand good, and bind the Party to performance; but where the *sinful obliquity* passeth upon the substance of the matter, or adhereth inseparably thereunto; there not only the act of vowing is sinful, but the *performance* also becometh unlawful: In which *Cases* those other saying ought rather to have place, *Juramentum non debet esse vinculum iniquitatis, in malis promissis rescinde fidem, in turpi voto mûta decretum*, &c.

Sect. 10. If it shall be said, that this difference being admitted, will nothing avail the Gentlewoman in our present Case, to free her from the *obligation* of her said *promise*;

mise; because here the *matter* of *promise* seemeth not to be in it self *unlawful*, especially on her part; for if the Gentleman her Friend, were presently free from the Bond of Matrimony by the death of his Wife, as the Gentlewoman now is by the death of her Husband, they might perform what they had promised either to other, by joyning themselves in Matrimony, and that without sin, which is an argument that the *sinful obliquity* was only in the act of promising; which therefore they ought to repent of: but doth not cleave to the matter of the promise, which therefore they ought not to *violate*. To this I answer, what in my opinion is true, That if both the Parties were now actually free from the Marriage bond, they not only *lawfully* might, but were in Conscience bound (unless some other lawful impediment should hinder) to joyn themselves together in *Matrimony*, because none of the fore-mentioned *Obliquities*, which made the former act of promising unlawful, would fall upon the after-*act* of *Marriage* to make it unlawful. But that *Allegation* is not direct to the Point in hand, nor to the Case as it is propounded; for it may be observed from the very form of the proposal,

posal, that the matter of the promise, wherein the Parties interchangeably bound themselves, was not to *Marry* together, when they should be both free; upon which false ground the Objection runneth; that was indeed the thing they aimed at therein; but the end is one thing, and the matter another: but the very matter of the promise was, the continuance of their mutual affection either to other, with a resolution to stay the one for the other, when either Party should happen to be free from the bond of the present Matrimony, till the other should be also free. The continuance of which *affection* and resolution, will upon examination be found subject to all, or some of the three *Obliquities* aforesaid; and therefore as such an affection and resolution, could not be entertained at the first without sin; so neither can they be now continued in without sin; for so long as they continue, the first of the said *Obliquities* remaineth still, both on his part and hers; the second indeed by the death of the Husband is ceased on her part, but remaineth still on his, and the third contrarily being on his part ceased, remaineth still on hers, as will evidently appear to the understanding of any man that shall take the pains to examine it.

Sect.

Sect. 11. Yea, and it is further to be considered, that the continuance of such an affection and resolution may be likely to expose a well the one as the other to the assault of more strong and dangerous temptations, now since the Husbands death, than before. The danger on the Gentlemans part, this, lest by how much he is now by the Husbands death, put into a nearer possibility of enjoying his unlawful hopes, he should grow into so much the deeper loathing of his own bed, and so much the earnester longing that, that which is now the only *obstacle* to the fruition of his desires were removed; of which thoughts, who can tell how *fearful* the *issues* might be? the *sly Enemy* being most ready at all times to *practise* upon the *corruption* that is in the *naughty heart* of Man; but especially having a *mighty advantage* against him, when he hath got his *conscience* as it were in a *snare*, by the *engagement* of some *vow*, *promise*, or *setled resolution*. And then on the Gentlewomans part, the *danger* this, lest having by her own voluntary act debarr'd her self of that which is the only allowed remedy, namely *Marriage*; she should by the just judgment of God, be left to the rage of the Disease of *burning Lusts*:

for

for upon what sound warrant can she be confident, or with what reason expect, that God should either preserve her from, or assist her against temptations in that kind, though she should seek it of him with Fasting, and Prayers, and Tears, so long as she tempteth Him by persisting in a wilful obstinacy against that means of Remedy which He hath appointed? Indeed, where the Hand of God Himself hath prevented the use of the Remedy, (as if the Husband should be long detained in a forein Land, or held in close Prison, or taken with a *dead Palsie*, or some other bodily impotence, or the like) there the Wife might comfortably implore God's assistance to preserve her from being overcome by carnal temptations, and assuredly rest upon it by Faith, if she be not wanting to her self, in putting to her own utmost endeavors, because she hath a Promise to rest upon for that purpose; and God who is faithful in all his Promises, is also faithful in this, of *not suffering his Servants to be tempted beyond their strength*: but for the Wife, by some inconsiderate act of her own, wherein she wilfully and obstinately persisteth to refuse the appointed means, and yet to expect God's assistance nevertheless,

for which she hath no Promise, is a fearful tempting of God; and it is but a just thing with God, and she suffereth it *worthily* for her *presumption*, if she be left to her self, and so wrestle with the temptation by her own strength, and so be overcome thereby: For God, who hath after a sort tied Himself by His free and gracious Promise, to protect us in *Via Regia*, so long as we walk in the ordinary known way that he hath appointed for us, hath no where bound Himself to vouchsafe us the like powerful protection *Extra viam Regiam*, if we refuse that *high-way*, to walk in *by-paths* of our own choosing; which present dangers on both sides, and the former reasons laid together, do sufficiently prove, that the Gentlewoman is not at all bound to perform her said unlawful Promise.

Point V.

Sect. 12. Hitherto we have proceeded in *genere judiciali*, by considering of the nature and *validity*, lawfulness and *obligation* of the Promise for the time past: Now we are to deal in *genere deliberativo*, and to consider what in *Christian Wisdom* is meetest to be

be farther done, for the better both quieting and regulating of the Conscience for the time to come; wherein, submitting to Men of better judgments, and experience, I give my advice as followeth, *viz.*

First, That the Gentlewoman out of the serious consideration of the Premises, be brought to a through feeling of the grievousness of those sins which she hath committed against God, and wherein she hath so long continued, that so she may not only be humbled in his sight with true contrition of heart, and remorse for the same, proportionably to the greatness thereof; but also be provoked to a proportionable measure of thankfulness unto him, for his gracious goodness in restraining her unlawful affections from breaking out into actual uncleanness, and preserving her when she had run out so far in an evil way, from rushing into more desperate Extremities; for *Erranti nullus terminus*: as a stone that tumbleth down a steep hill, so mans corruption, when it is once set on going, hath no stay of it self till it come to the bottom of *Hell*, unless the Lord lay a stop in the way: and it is to be acknowledged a blessed act of God's merciful Providence, when we have let loose

the reins to our own *lusts* in any kind, if they be bridled from running headlong into all excess of wickedness; great sins require more than ordinary Repentance, and great mercies more than ordinary Thankfulness.

Sect. 13. *Secondly*, That having thus humbled her self before God by inward Contrition, she also make an outward free Confession of her said sins, to ~~him~~ whom God hath delegated a Ministerial Power to remit sins, that she may receive Comfort and Absolution from his Mouth; I mean the Priest: and this I think meetest to be done to the Bishop of the Diocess, with one or more of his *Presbytery*, such as he shall think good to take to him to assist him; or else to some other by his appointment; because the Bishop is the chief Pastor, to whom the care of souls most immediately belongeth, within his own Diocess: besides that, both the quality of the person, (if she be of eminent Place, and Rank) and the weightiness of the case, make it so much the more proper for his *cognisance*: But howsoever it would be done to a Man of *approved Wisdom*, and such an one as will be both compassionate, and secret, wherein the more freely she shall make confession of her said sins,

sins, and the more chearfully she shall subject her self to perform such further Acts, whether of *Humiliation* or *Charity*, as the Bishop or Priest shall advise to be done, in testimony of her *unfeigned Repentance*, the more sound comfort undoubtedly will the *sentence* of *Absolution* bring unto the *soul*.

Sect. 14. This done, then *thirdly*, that she endeavor by all *fair means*, that the Gentleman also her *friend* and *partner*, in the aforesaid Promise, may be brought to the like sight and acknowledgment of the great sins that were enwrapped in that *act*, and to a true perswasion withal, that so long as he continueth in the former unlawful affection and resolution, he is not only still under the guilt of those sins, but also in *near danger* (without God's great mercy preventing it) of falling into other and greater sins, for which purpose it will be expedient, that he be truly and effectually dealt withal, (yet with as much *lenity* as the *state* of his *Soul* will suffer, and withall possible secresie) and that by some such person especially as he holdeth a *reverend Opinion* of both for *Learning* and *Piety*; and to procure that this be done, the Gentlewoman ought to take it into her own especial care; which it

will concern her to do, not only in Christian Charity for the good of his Soul, but in *Christian Wisdom* also for her own future *benefit* and *security*.

Sect. 15. For when he shall be once throughly convinced in his judgment and conscience, of the unlawfulness of the Promise made between them, and of the sinful inconveniences that attend the *continued purpose* of *fulfilling* it, there is a fair way open for that which is *next* & *fourthly* to be done, *viz.* That he be then earnestly moved for his *Relaxation* of the said *Promise* to the Gentlewoman, which (being it was but a *meer Promise*, and no *Vow*, as in the *first Point* hath already been shewed) he hath in himself a *full power* to make, and this also to be done in the *presence* of such Persons, as they shall make choice of betwixt themselves to be *witnesses* of the said *Release*; for although the Promise being *utterly unlawful*, hath no power to bind, and so there needeth no *Release*, as of absolute necessity, in regard of the thing it self; yet such *Release* may be very *behoveful* in regard of the Gentlewomans person, and for the quieting of her conscience, in case there should remain any fears or scruples behind, lest perhaps her

promise

promise should *still bind* her; for as *Satan* laboureth to *benum* the *Conscience* with *security*, to make men bold to commit sins without scruple, till he has drawn them into the *snare*; so when he seeth them offer to get out of the *snare* again by *Repentance*, he is very cunning to inject *needless scruples* and *fears*, if possibly he can, to hold them in by means thereof; wherefore I hold it very expedient, that such a *Release*, if it may be obtained, be not neglected; for thereby the binding power of the *Promise*, though we should suppose it lawful, should be quite taken away, so as there need no scruple to remain: *Abundans Cautela non nocet*, is a safe *Aphorism*; as wary men when they pay moneys, besides seeing the *Book* croft, will crave to have an *Acquittance*: So it may be some *satisfaction* to the Gentlewomans mind, to have a solemn *Release* before *witness*, which say it should be more than needeth, yet can do no harm howsoever.

Sect. 16. *Fifthly*, that the Gentlewoman all the while before, and so ever after (that time only excepted, when the *Relaxation* should be made, for then it is requisite she should be personally present) carefully avoid the company of that Gentleman, and *he*

likewise *hers*, so far as conveniently may be; but at leastwise, by no means *converse together* with any familiarity, especially in private; lest the former *unlawful affection* should rekindle in either Party, and so the *disease* after some measure of *Cure* grow to a *relaps*, which many times proves more dangerous than the *first malady*; for commonly when the *unclean spirit* is ejected by *Repentance*, if once he make himself *master* of the *heart* again (as he will attempt it, and without a good watch happily effect it) he will be sure at the *re-entry*, to come with a *new strength*, and that *seven-fold* to what he had before, and *needs must the end of that man be worse than the beginning*: she must therefore resolve to shun all *likely occasions* of falling again into the same snare, so far as the quality of her person and condition, and the *common affairs* of *life* will permit: And she had need also to use her best care and diligence (praying to God daily for Grace to strengthen her thereunto) to *withstand* all *wicked temptations* of the *flesh*, that she be no more *foiled* thereby, neither *entangled* again in such *sinful inconveniences*, as by God's Mercy she shall be now *freed* from.

Sect.

Sect. 17. If in these *Directions*, I be thought to *deal* with too much *rigour* and *strictness*, it would be considered:

First, that it's much better to put the *Patient* to a little more pain at the first, than by *skinning* the wound over, to heal it deceitfully; and to suffer it to *rankle inward*; which will breed a great deal more *grief* at last.

Secondly, That since all men (through corrupt *Self-love*, and privy *Hypocrisie*, cleaving to our *depraved nature*) are *partial* towards *themselves*, and apt to deal more *favourably* with their own sins than they ought; it is therefore safest for them (in their own Cases especially) to encline to *severity* rather than *indulgence*.

Thirdly, That there may be a *mitigation* used of the *present Directions*, according as the state of the *Patient* (in the several variations thereof) shall require; but that (for the avoiding of *partiality*) not to be permitted to the *sole liberty* of the *party himself*, but rather to be done by the *advice* of a *Ghostly Physitian*, who if he be a man of such *wisdom* and *moderation* as is meet, will I doubt not allow a greater *indulgence* in case he see it expedient, than it could be safe for

for the Party her self to take of her own head.

Fourthly, That in all this Discourse, I take not upon me to write *Edicts*, but to give my advice, that is to say, not to prescribe to the *judgment* of others, if any shall see cause to *dissent*, but to deliver my *own opinion* (being requested thereunto by a Reverend Friend) with such a *faithfulness* and *freedom* as becometh me to do; and truly those Parties whom it most concerneth, ought not to *blame* me for it howsoever; inasmuch as there can be no cause to *suspect* that I should be carried with any *personal respects* to be *partial* either for or against either of them; so God is my witness, whom I desire to serve, I had not any intimation at all given me, neither yet have so much as the least conjecture in the World, who either of them both might be.

The CASE of a *MILITARY LIFE.*

SIR,

IN referring over your friend to me, you have pitched upon one of the unfitteſt perſons in the World, to be conſulted in caſes of that nature, who am altogether a ſtranger to the *Publick Affairs* of *Chriſtendom*, and underſtand nothing at all of the mutual *Intereſts*, *Relations*, or *Tranſactions* of *Forein Princes* or *States*; yea, ſo little curious have I been to inform my ſelf, ſo much as where the *Stages* lay of the chiefeſt *Actions* of theſe latter times abroad, or what perſons were engaged therein; that I have ſomething pleaſed my ſelf (perhaps too much) with my *own ignorance* in our *home Affairs*, accounting it among the *happineſſes* of my *privacy* and *retiredneſs*, in theſe *unhappy times*; that amidſt ſo much *fury* and *bloodſhed* on every ſide, it was never my hap to be within the view of any *Battle* or *Skirmiſh*; nor did I ever ſee ſo much as a *Piſtol* diſcharged, or a *Sword* drawn againſt any ſingle perſon,

person, since the beginning of the *War*. I could have wished therefore, since my opinion herein is desired, that I had had the opportunity to have advised with some more knowing Men, and of greater experience and judgment than my self in these *matters*; or at least, that you had sent me, together with the two enclosed Letters, a transcript of your Answer (whose judgment I do with great reason very much *value*) unto the former of them; for there I assure my self, I should have met with such *Materials* as would have served me for a good *foundation* to work upon; yet to satisfie your desire, so far as in me lieth, and the rather for the *Gentlemans* sake your friend, (who though *unknown* to me by face, or till the receipt of your Letter, so much as by Name; yet by his Letters appeareth to be a person of Piety and Ingenuity, and a great Master both of *Reason* and *Language*) I have endeavoured (with reservation of Place for second thoughts, and submission to other Judgments) to declare what my present *apprehensions* are concerning the whole business; wherein the *resolution* of such doubts, as in point of *Conscience* may arise, or of the *most* and *chiefest* of them, will (as I conceive) very much depend upon the

the consideration and right application of these *Four things*, viz.

I. *The different sorts of Mens imployments in general.*

II. *The nature of the Souldiers imployments in particular.*

III. *The end that Men may propose to themselves in following the War; or what it is that chiefly induceth them thereunto.*

IV. *The condition of the Person so imployed, or to be imployed.*

I. *Considerations of Mens Imployments in General.*

1. MEns *imployments* are of two sorts. The *one* of such as any man may (without blame from *others*, or scruple within himself) follow, meerly upon his own *score*, if he find himself in some measure able for it, and have a mind thereunto; he hath a power in himself (and that *jure proprio*, by a *primitive* and *original right*, without any necessary *derivation* from others) to dispose of himself, his time and industry in that way; for the exercise of which power, there

there needeth no special or positive *warrant* from any other person, but it is presumed he is, (as in relation to others) sufficiently warranted thereunto in this, in that he is not by any *Superior Authority*, Divine or Humane, *forbidden* so to do; and upon this account it is, that men betake themselves, upon their own *choice* and *liking*, to *Husbandry*, *Merchandize*, *Manual Occupations*, the *study of the Law*, &c.

2. But *another sort* of *Imployments* there are, whereunto a man hath not a *just right* primitively, and of himself, neither may he *lawfully exercise* the same meerly upon his own choice, but it is necessary, that that power should be derived upon him from some such person or persons, as have sufficient Authority to warrant him for so doing: Such is the *Imployment* of a *Judge*, a *Constable*, an *Arbitrator*, *&c.* which are therefore said to be *juris delegati*, because the right that any man hath to such *Imployments*, accrueth unto him by virtue of that Authority which he receiveth by *Delegation* or *Deputation* from some other that hath a right by *Command*, *Election*, *Nomination*, or otherwise to *Impower* him thereunto, whence are those usual forms, *Quo jure*, *Quo warranto*? *Who made*

made thee a Judge? By what Authority dost thou those things? Or, *Who gave thee this Authority?* A man may betake himself to the *Study*, and so to the *Practice* of the *Laws*, of his own accord, but he may not take upon him to be a *Judge*, without *Commission* from his *Sovereign*; so he may follow *Husbandry*, and *Merchandry*, upon his own choice, but he may not do the Office of a *Constable*, unless he be chosen by the *Neighbours*; or of an *Arbitrator*, unless chosen by the Parties thereunto.

3. Now, although as well the one sort as the other, after a man hath addicted himself to the one, or is deputed to the other, may not unfitly be termed his *Particular Calling*, and the *latter* perhaps with better *propriety* than the former, (for the word *Calling* properly importeth the *Action* of some other person) yet according to the common Notion, which by custom of speech among us, we have of these terms [*The General and the Particular Calling*] the *Imployments* of the *former sort*, are usually taken to be the *Particular Calling* of Men, and those of the *latter sort*, will be found (if well considered) to fall rather under the *General Calling*, as branches or parts thereof, inasmuch

much as the exercise of such Imployments, is a part of that *moral duty*, which all men (according to their several respective Relations) ought to perform to others, being by them *impowred* thereunto, upon the tie of *Obedience*, *Contract*, *Friendship*, &c. but for *distinction sake*, as the *Latins* make a difference between *vitæ institutum* and *munus*, we may call those of the *former sort*, *Mans Profession*, and those of the *latter sort* his *Office*; so a Man is by *Profession* a *Lawyer*, by *Office* a *Judge*; by *Profession* an *Husbandman*; by *Office* a *Constable*.

4. To bring this *Discourse* home to the *present business*, we are next to enquire, to whether sort of the two, the Imployment of a *Souldier* doth more properly appertain; that is, whether we are to conceive of it as a *Profession* which a man may at his *own choice* fix upon, as his *particular vocation*; or rather as an *Office* of *duty* and *service*, which he is to *undergo*, when by the *command* of his *Prince*, he shall be thereto *appointed*, and so to come rather under the notion of a *General Calling*? To me it seemeth clearly to be of the *latter sort*. For, (1.) in the passage of St. *Paul*, 2 *Tim.* 2. 4. *No man that warreth, entangleth himself in the affairs of this life, that*

that he may please him that hath chosen him to be a Souldier; the word is στρατολογήσαντι applied to him that *warreth* with the *note* of *Universality* (ᾧ οὐδεὶς στρατεύεται) *annexed*, seemeth to imply, as if he *supposed* that no man might go to *war*, unless he were *chosen* for that *service* by some other person that might command it. Nor do I see (2.) what good construction can be otherwise made of that *speech* of our Saviour, *Matt.* 29. 57. *All they that take the Sword, shall perish with the Sword*; or what should be the crime there intended to be signified, by this Phrase of *taking the Sword*, if it be not *this*, for a man to *take* the *Sword* into his *hand* by his *own Authority*, before it be *put* into his *hand* by that *Supream Power*, whom God hath immediately *trusted* with the *bearing* and *managing* of it. Now, (3.) can that be said to be a *Mans Profession*, or *particular Calling*, which men of all Professions are (in *obedience* to their *Governors*, and for the *service* of their *Countrey*) *bound* to *perform* whensoever they shall be by *Lawful Authority*, *called* and *appointed* thereunto.

5. If these *premises* will be *granted*, it will soon appear, that the *answer* to the *Question proposed*, in the beginning of the former

mer Letter (as it standeth there in *Terminis*, and in *Thesi*, abstractly from the *consideration* of the *person* in the said Letter *charactered*, and those other *circumstances* which may vary the *Case*) must be in the *Negative*; viz. *That it is not lawful to be a Souldier, upon the same account that men apply themselves to Trades, to the practice of the Laws, and to other (like) civil Imployments.*

II. *Consideration of the Souldiers Imployment in particular.*

1. THe *care* that ought to be in every Man that *taketh* upon him the *exercise* of any *Office*, to be well assured that he hath a *sufficient right* and *warrant* for so doing, is no less requisite in a *Souldier*, than in any other Officer; yea rather by so much more requisite in him, than in most of them by how much the matter he is conversant about, (*viz. the Life of man*) is of *greater consequence*, than are the matters in which most of them are imployed; for the Souldier every time he draweth his Sword in the Field, is by the very nature of his Imploy

ployment supposed to do it either with a *resolution* to lose his own, or to take away his *Enemies life*; else he doth it but *prevaricate*, and is *unfaithful* in the *Service* he has undertaken: In which *service*, if it be his fortune either to kill, or to be killed, he is actually and deeply guilty; but if neither, yet that very *resolution* maketh him intentionally guilty of the Transgression of the sixth Commandment, *Thou shalt not kill*; in case he have no *good right*, so far to dispose either of his own, or the others life. It concerneth him therefore to look well to that; both what Power belongeth to him, as a Souldier, and by what Authority he claimeth the exercise of such a Power.

2. Most certain it is, that properly and originally the *power* to *dispose* of Mans Life (*Jus vitæ & necis*) belongeth to *God alone*, who is, *Dominus vitæ & necis*, as the *sole Author* of *Life*, so the *sole Lord* and *Master* of *Life* and *Death*: some part of which *power*, since it hath pleased him for the good of *humane Society*, (in the preservation of *Peace* and *Justice*, and the punishment of such as are enemies to either) to communicate unto men, (which power so communicated, is that which we use to call *Jus Gladii*, or the

power of the Sword) it may therefore be *lawfully exercised* by men; but within that *latitude*, and in *order*, as God hath communicated it to them, but not farther nor otherwise.

3. Now God hath not given to any man, either *Sovereign* or *Subject*, power over his own life, to destroy it by his *own voluntary act* in any Case; no, nor yet power to expose it to the certain hazzard of being destroyed by another in *fight*, saving in the one only Case of *just* and *necessary defence*: under which *notion* is to be comprehended also the hazzarding of the *Princes Life*, in a *just* and *necessary War*; out of which Case, whosoever shall *expose* his *life* to hazzard, by *fight*, of his *own accord*; if he *perish* in it, cannot be *excused* from being guilty of his *own death*, nor from usurping a power over his own *life*, which God hath not allowed.

4. Add hereunto the *injustice*, that he thereby doth to his *Sovereign* and *Countrey*, God hath given to his *Vicegerents* here on Earth, a *right in*, and a *power over* the persons of all their Subjects, within their several respective Dominions, even to the *spending* of their *lives* in their *Countreys service*, whensoever they shall be by their *Authority* required thereunto, which they cannot therefore

fore *prodigally spend* at their *own pleasure*, without *apparent wrong* done to their *Governors* interest; for as he that shall kill a *private person*, is not only an *offender* against God, and against that person, in depriving him of *life*; but is also by the Interpretation of the Laws, (according to the importance of the ancient form of Enditing) an *offender* against the *Crown* and *Dignity* of his *Sovereign*, in depriving him of a *Subject*, and consequently of the *interest* he had in his *person*, and of the use he might have had of his *service*: so he that is so *prodigal* of his *own life*, as to hazzard it upon the *Sword* in *fight*, without his *Sovereigns Authority*, if he perish, is not only *guilty* of his being *accessary* to his *own destruction*; but doth also an act injurious and prejudicial to his *Sovereign*, at whose *service* and *disposal* (under God) his *life* and *person* ought to be.

5. And as his *presumption* cannot be *excused*, if he be *slain* upon that account; so neither can he *justifie* the *killing* of another (though an enemy) in *Battle*, if he have no other *warrant* for taking of *Arms*, than from himself; for War is a kind of Judicature, wherein the Prince that wageth the War, is as the Judge that giveth sentence of death

againſt the Enemy, as a diſturber of the Peace of his Countrey, and all that engage in the War under him, are but as ſo many executioners of the ſentence pronounced by him; and he that executeth the ſentence of death upon another, muſt do it by ſome *lawful Authority*, as well as he that pronounceth the ſentence; or elſe he is a *Murtherer* as well as *This*. Now the Souldier that by fighting on the one ſide, doth *ipſo facto* declare againſt thoſe of the other ſide, as Enemies; if he ſo engage of his own mind only, he doth indeed, upon the point, take upon him the Office of a *Judge*, being none, and ſo *runneth* before he be ſent: or if it ſhall be ſaid in his behalf, That he doth it not as a Judge, but as the Executioner of the ſentence pronounced by that Prince, into whoſe ſervice he hath put himſelf, and who by the accepting of his ſervice hath ſufficiently authorized him to do ſuch Execution: Your Letter hath ſuggeſted to me this ready Anſwer, *That the ſentence pronounced by one that is not his Lawful Sovereign, and by conſequence, whoſe judgment he is not warranted to follow, is of no more validity* (as in relation to him) *than* Sententia lata à non judice, *and therefore can be no warrant to him to execute it.* True it is, that

that with *licence* from his *Sovereign*, he may serve under another Prince, and consequently do such execution as we now speak of; because the Sovereign by so licensing him, doth really refer him over from himself to *anothers judgment*, and consequently warrant him to follow the same, and so render him capable (upon the others acceptance) to execute it. All this is true, but nothing to our purpose, because it doth *destruere suppositum*; for we now suppose the Case of a *Souldier* putting himself into service, under a *Foreiner* of his own mind, and where *himself thinketh good*, without the *knowledg* or *licence* of his own *lawful Sovereign*.

III. *Consideration of the end to be proposed by the Souldier.*

1. SIth the *goodness* or *badness* of Mens *actions* and *undertakings* dependeth very much upon the end which they propose to themselves therein; he that would desire to lead a *Souldiers life*, must narrowly examine his own heart, what it is, *bona fide*, and in very deed, that first and chiefly induced him to

that desire, and what *affinity* there is between that end, which he proposeth to himself, as the main scope of his Intentions, and that which is or ought to be the *true end* of the thing it self; the true end of the War, which only can warrant it *lawful*, we all know is the necessary *preservation* of a *Common-wealth* in *Peace*, by repressing (or preventing) all *Seditions*, or *Hostile attempts* to the contrary; but as in other things it often happeneth, according to that saying, [*Finis non idem est artis & artificis*] so here many times the Warrior hath another *end* to himself far distant from that of War, and the more *distant* ever the worse; as on the contrary, the *action* is ever by so much the *better*, by how much the *intention* of the person hath a *nearer affinity with*, or a *directer tendency unto*, that for which the thing it self was *ordained*.

2. Now, the *ends* which men, desirous to follow the Wars, do usually propose to themselves in so doing, are especially one of these Three, *Lucre*, *Honour*, or *to do their Countrey service*; concerning which, we are to enquire severally, whether or no, and how far forth any of these may be a *sufficient inducement* to a *Christian*, or but *moral man*, to follow the Wars, as his *particular Calling* or *Profession*.

3. For

3. For *Lucre* first: He that hath a *warrant* otherwise to imploy himself as a *Souldier*, may doubtless lawfully both *receive pay*, and *require* it; *John the Baptist* allowed the *Souldiers* τὰ ὀψώνια, *Luke* 3. 14. And *St. Paul* thought it not reasonable, that any man should go to *warfare at his own Charges*, 1 *Cor.* 9. 7. Not so only, but he may also, in putting himself upon that *imployment*, (being called thereunto) have an *eye* to his *profit*, and an *actual intention* (if moderate, and otherwise rightly qualified) of getting himself a *livelihood*, yea, and of *raising himself* a fortune (as we call it) by his *service* therein; even as men in the choice of other Professions, or undertaking Offices usually do, and may do without sin? but to propose to himself *Lucre*, as the *main end* and *scope* of following the Wars (as it is evident by their actions, that very many of our Common Souldiers do) is one of the most *hateful* and *unrighteous* things in the World: so far is it from being a *sufficient inducement* to any man to make that his *Profession*. How can it be imagined to be consistent with that *Charity*, *Justice*, and *Moderation*, that should be in every *Christian* to set up a *Trade* of *killing of Men* for Money? The meer *Mercenary Souldier*

Souldier therefore, or a *Souldier* of *Fortune* (as we call him) I find every where inveigh'd against as one of the greatest Scourges or Plagues of Mankind; for such Men never look at the Cause they engage for, whether it be right or wrong; but at the *pay* and *prey*; and therefore they take their best Markets, and care not whom they *undo*, *kill*, and *oppress*, by *Violence*, *Rapine*, *Murther*, and *Plunder*, so that they may but enrich themselves thereby, and can do it with safety: Nor will they stick, if there be an advantage to be made of it; and that they can spy a fit opportunity for it, either to betray their own party, or to revolt to the other side, or to do any other act, though never so base and dishoneſt, *Nulla fides pietasque virtus qui castra sequuntur.*

4. Next the intuition of Honour and Glory to be acquired by *worthy Actions* in the *Wars*, may be not only lawful, but commendable also and useful in a *Souldier*; and truly this of *Glory* is a more *noble end*, of a higher pitch, and more befitting a generous spirit by much than that of *Lucre* is; both because Men of eminent *Birth*, and *Place*, and *Parts*, are apteſt to be affected with it; whereas *Gain* worketh most upon the lower sort

sort of Men, and also because it putteth Men upon more worthy Enterprizes, and such as may win *Honor* and *Reputation*; and restraineth them from those baser acts of *Injustice*, *Cruelty*, and *Rapine*, to which the desire of *Gain* usually prompteth the *Mercenary* Man; but yet as to the warranting of the *Souldier* for making that his *Profession*, (which is the Point now in hand) this of *Glory* is of no more importance than was that of *Gain*; for the right end of *War*, being a *safe* and *honourable Peace*, there is something common to both (consequential to the desire of *Glory* as well as of *Gain*) so inconsistent with that end, that it setteth them at an equal, or not much unequal distance therefrom: For as he that aimeth to gain by the Wars, cannot but desire the continuance of War, that so his hopes of gain may continue; so he that aimeth to get himself Glory by the Wars, cannot but desire the continuance of War, that so the opportunities of encreasing his *Glory* may continue; for there is a *Dropsie* of vain-glory in the *Ambitious*, as well as of *Avarice* in the *Covetous*, as *thirsty* and *unsatiable* in the *one*, as in the *other*; whence it cometh to pass, that both the *one* and the *other* use their utmost wits and endeavours

vours to find occasions to lengthen the Wars, and to *obstruct* and *retard* (so much as lieth in them) the advices of *Peace:* Nay, let me add moreover, that in this respect at least (*viz.* as to the effectual hindring of Peace) that of *Honour* and *Glory*, is much the more dangerous end of the two; because this humour is apteſt to seize upon the *greateſt Persons*, and such as by priviledge of their *birth*, eminency of their *places*, activeness of their *spirits*, glory of their *former actions*, or other like advantages bear a great sway in *Councils*, and are of some authority in the *Armies*: whereas the *Peasantry*, in whom most of the other *humour* (that of base *Lucre*) aboundeth, have neither the *wit* nor the *power* ordinarily to do much harm. It hath therefore been a constant observation in all times and places, that the embroyling most *Commonwealths* in Wars, in the mean time, and working their ruin in the end, hath grown from the restlesness of some ambitious spirits, and their immoderate thirst after *Honor* & *Glory*.

——*Patriam tamen obruit olim*
Gloria paucorum, & laudis titulique cupido:
Juvenal Sat. 10.

5. So

5. So that if there be any possibility of finding a person capable to take upon him the imployment of a *Souldier*, as his proper *Profession*, it must be among those that propose to themselves the same end therein, that is, or ought to be the *end of War*; that is to say, those that after an impartial search of their own hearts, can truly say (and not pretend it only) *That their chiefest aim in applying themselves to the Wars, is to do their King and Country service, in procuring or preserving the Peace thereof:* which no man can truly say, but he that prefereth the *Publick Good*, and the *Peace* of his *Country*, before all *private Interests*. The tryal whereof is, if he take up Armes with this *Resolution*, and by his after carriage make it *good*, not to do any *act*, or enterprize any thing for his own *benefit*, *glory*, or *safety* that may hinder, nor to refuse any service or hazzard that may probably promote the obtaining of that end; which Qualification supposed, I deny not but that a Man may find warrant to go on in the way of a *Souldier* as his proper *Profession*, and that in two Cases.

6. First, that which (in the nature of the *Imployment* it self) is rather an *Office* than a *Profession* (such as we have already shown the

the *Souldiers* imployment to be) may yet become to the person so imployed, as his proper *Profession*, if he shall be appointed thereunto by *lawful Authority*; especially if it be done with a declared intention (whether expresly or interpretatively declared) of continuing him for life, or for any long space in the same; and that the said imployment, during such his continuance therein, shall require his personal attendance, either constantly or for the most part: As for example, a *Lawyer* by Profession and Practice, is by his *Sovereign* called to be a *Judge* of either Bench, or a *Baron* of the *Exchequer*, the *Office* of a *Judge* is now become his *Profession*, or *particular Vocation*, because it is supposed that he is to continue in that Office; and the execution of that Office will require his attendance thereupon, in the yearly *Terms* and *Circuits*: but if the *King* shall appoint a *Serjeant* or *Counsellor* at the Law, by his particular *Commission* to ride this *Summers Circuit*, into such and such Countries, and there to execute the *Office* of a *Judge*, the Party so *constituted* and *appointed*, hath by virtue of that *Commission*, full power to do the Office of *Judge* in that *Circuit*, and is to be received and honoured with the title of *Lord*, and

and all other testimonies of *honour* and *respect*, in as much ample manner as other *Judges* in their *Circuits* are; yet doth he not thereby come to be *denominated* a *Judge*, as if that were his proper *Profession*, or ordinary *Calling*, as in the former Case; because he is *impowred to execute the Office of a Judge*, but during the time of that *Circuit* only: Nor is his *attendance* upon that Office any longer required, or so much as allowed him. In like manner, if the King of *England* shall make choice of some person of Quality to be *Governor* of *Dover Castle*, or of *Barwick*, that Office then is as his *Profession*, or *particular Calling*; because it is to be supposed, he is to continue in that *imployment*, and to *attend* the same until the Kings pleasure be further known therein: but if the King upon some sudden *Insurrection* and *Invasion* should raise an Army, and make choice of some person of like Quality to have the *Conduct* thereof, for the *Suppressing* or *Repelling* such *Insurrection* or *Invasion*, his *Imployment* in that service being but *temporary*, and to determine as soon as the business were ended, should not otherwise than in courtesie denominate him a General; or at least not be *esteemed* as his permanent pro-

profeſſion, but only as a *tranſient Office*; This is one Caſe.

The other Caſe (which is more pertinent to the buſineſs of theſe Letters) is of ſuch as deſire to *imploy themſelves* in the exerciſe of Arms in *Forein Service*, that they may attain to ſuch knowledg or experience in the *Art Military*, as might the better enable them to do their King and Countrey Service, whenſoever there ſhould be need thereof; for ſince the *Managery* of War is long ſince grown into an Art, and that not to be learned from Books, or from *private ſtudy*; but to be acquired by much *practice* and *experience*, and diligent *obſervation*: and the rather for that the particular *Rules* of that *Art*, do not ſtand at ſuch a certain ſtay as thoſe of moſt other Arts do, but are daily altered and improved by new Inventions: It is very neceſſary for every *State* to be well provided of a good number of ſuch perſons of their own Nation, as ſhould be expert and skilful in that Art; leſt they ſhould be forced, if an unexpected War ſhould happen, to call in *Foreiners* for *aſſiſtance*, which is both diſhonourable and dangerous: the neceſſity hereof too well appeareth by the evil conſequents of the neglect of it in this

this *Nation* in the se *latter times*, especially in the *Reigns* of the *two last Kings*, by reason of the *long Peace*; and (which commonly breedeth out of it as the *rust* and *canker* thereof) tenderness of Education and voluptuous living. The *Nobility* and *Gentry* of *England*, in the generality of them, had so much *degenerated* from the *Martial Prowess* of their *Ancestors* renowned in all *Histories*, than in the beginning of these *unnatural Wars*, there were very few to be found of our own *Nobility* and *Gentry*, fit to have *Command* in an *Army*, or that knew any thing belonging to the *Art* of *War*; insomuch as use was made on both sides of *Mercenary Men*, and most of them *Scots*, who being for the most part bred up abroad (in *France* especially, a place of much action) had learned experience more than our *English* had in such matters, by which *advantage* they had so wound themselves into the *chief Places of Command*, and had such an *influence* into the *Councils* of both sides, that the *War* was in a manner *wholly ordered* by their *directions*, witness the great power that *Ruthen*, *Virey*, *King*, *Meldram*, &c. had in the Armies on either side.

8. The weightiness then of *Princes Affairs*, upon all *emergent occasions*, rendring it

necessary for them, not only to have *Power* to *command* their *Subjects* of whatsoever Rank or Profession to serve as *Souldiers* in their Wars; but also to provide aforehand for a supply of *able Men*, both for places of *Command*, and to execute other parts of that *service*, which cannot be done, unless a considerable number of persons be trained up in the exercise of *Armes*, and bred *Souldiers*: It is consequently necessary, that some persons be, either by their Authority appointed, or at least by their permission allowed to addict themselves to a *Military course of life*, as their proper *Profession* and *Calling*, which *Authority* or *Permission* from their *Sovereign*, will sufficiently warrant to their *Conscience* the choice of that *Profession*; supposing (as now we do) that the intention be right, the person meetly qualified, and all other *Cautions* in respect of the *matter*, *manner*, *circumstances*, and otherwise, duly observed.

9. The necessity of learning this *Art* granted, there may sometimes follow a further necessity, *viz.* of learning it abroad, and after it is learned, of *exercising* it *abroad*; and in *Foreign service*, and that in these two *Cases*: First, when the Souldiers own *Country*, whereunto his service is principally, and

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in the first place *due*, hath either the *happiness* to be in a *setled Peace* and *Freedom*, under the *Government* of a *lawful Sovereign*; or the *unhappiness* to be in such *servitude*, through the prevalency of an *Usurping Power*, that no *Resistance* can be made there against; for in the former Case, there is no *exercise* at all of the *Souldiers faculty* in earnest; and of what little avail to the attaining of any *solid knowledg*, or *experience* in the *Art Military*, such superficial *trainings*, as were used (and those but very seldom neither) by the *Lieutenants* of the several *Counties* here in *England*, with the *Countrey Captains* and *Muster-Masters* are (besides that, our own reason will tell us) the *Rawness* and *Unserviceableness* of our *Trained-Bands* in the beginning of the *late Wars* did abundantly *manifest*: and in the latter Case, the *Souldier*, if he will have *Imployment* at home, must either *engage* on the behalf of an *unjust Power*, or else run upon his own certain destruction to no purpose.

IV. *Consideration of the condition of the Person.*

1. THis must be considered too; for the different conditions of *persons*, may make a great difference in the *lawfulness* or *unlawfulness* of their *actions*, according to the *old saying*, which holdeth true in this sense also, no less than in *that other*, in which it is commonly used (relating to mens corrupt partialities, *Duo cum faciunt idem, non est idem.* In your Friends second Letter, I find a *demand* made (as in the way of *Reply* to some passage of your *Answer* to his first Letter) to this purpose; Suppose *two great Princes* (as *France* and *Spain*, for instance) have had *long Wars* together, and the *justice* of the *Cause* appear neither more nor less, on the *one side*, than the *other*; if in case a *third Prince*, or *State*, out of a sincere desire to *Establish* the *Peace* of *Christendom*, after other *offers* and *meditations* for that purpose made in vain, might lawfully *joyn* in *Arms* with the *one party* to force the *other* to *Peace*, why a *private person* might not as lawfully (having the same intention) enter into *Arms* for

for the same purpose; and the reason of *demand* thereof is, because every *Prince* or *State* is (in relation to other Princes and States) but as one *private man* to *another*; for being called to the *Regiment* of his *own people* only, he is but as a *private man* in *Aliena Republica*.

2. But that there is a great *difference* between a *Sovereign Prince* and a *private Person* in this affair, it cannot be denied; insomuch that I find in the very same passage (put in as it were by way of *Objection*) three very considerable differences. First, That Princes may, and sometimes are obliged by Articles and Covenants, for the defence of their Allies, to take up Arms, which cannot be the case of *private Men*. Secondly, That *Princes* may see cause to set in for their own safety and interest, lest the *prevailing Party* might grow *too Potent*, and so themselves might be *oppressed* by him. Thirdly, there is a greater probability in a Prince of compassing that Noble and Glorious end, *The Peace of Christendom*, than can be in a *private Man*. All these differences are allowed there as true; but yet excepted against, as not contributing any thing to the *justice* of the cause, which is here the Question.

If these do not, yet a *Fourth difference* there is, that will (as I conceive) manifestly contribute thereunto, to wit, that *Jus Belli*, is *Penes Principem solum*: in the business of War, *Princes* have a *judicial*, *private Men* an *executive power* only; and he that hath no power but to execute the sentence of a Judge, is bound to wait the *Judges Sentence* before he offer to act; otherwise he shall act beyond his lawful power, which is unjust: Not but that *Prince*, if he raise a War where he ought not, is unjust too; even as a Judge is unjust, which pronounceth a *wrong sentence*: but herein is the difference between them for taking up of Arms. The Prince having *jus agendi* in that behalf, may do it justly, and he may do it unjustly; yet where he doth it unjustly, he doth but *abuti jure suo*: but the *private person*, not having *jus agendi*, in that respect cannot (without the *Authority* of the *Sovereign*) do it otherwise than *unjustly*; because in so doing, he doth without leave *uti jure alieno*, which is alwaies unjust. It is one thing for a Man to use (whether well or ill) a power that of right belongeth to him; and another to assume a power of right not belonging to him: the *one* is not *unjust*, unless he *abuse* his Power, the *other is*, if he *use* it at all.

4. Neither

4. Neither perhaps will the Reason alledged to the contrary (*viz.* that a Prince in point of Justice and Power, is in *Aliena republica*, but as a *private person*) bear so much weight as is laid upon it, if one Point be well considered, which I think will prove a truth, though it be very tenderly handled; otherwise it may prove very dangerous, both because it may seem a Paradox to those that have been little conversant in publick Affairs; as also, and especially, because it may, by racking it too high, be easily wrested to a mischievous construction, for the Patronage of any *Tyrannical action*; the point is this, that *justitia politica*, and *Justitia privata*, have not in all the same adequate measure. *Princes* are bound to be just, as well as the *meanest private men* are, and obliged to keep Faith both with *Friends* and *Enemies*, every whit as *exactly* and *punctually*, without *equivocation*, *reservation*, or other *eluding devices*, as they; of all this no man doubteth: but it is not therefore necessary, that the *Rules* of *Justice*, whereby the *Councils* and *Actions* of *Princes* and *States*, in their mutual Relations are to be measured, should be precisely *the same* with those which measure the *dealings* of Private men one with another.

5. And the reason of the difference is evident: private Mens *Controversies* may be *decided*, and their *Injuries repressed* or *punished*, by the positive *Laws* of the *State*, whereof they are Members; and consequently *subject* to be ordered in all their dealings by those *Laws*; which *positive Laws* (together with the *Law* of *Nature*, and the *Divine Law*, which are common to all Men) are the *adequate Rule*, whereby the *Justice* of *private Persons*, and of their *actions*, is to be measured; but since *Princes* and *States* are not subject to any such *positive Laws* common to them both, as may determine their Differences and Controversies: The great necessity of *Humane Affairs*, hath (for the good of Mankind in the preservation of Peace) introduced by the common consent of *Nations*, another *Law* of larger extent, that which we peculiarly call *Jus Gentium*, or the *Law of Nations* (whereof that which we call the *Law of Armes*, is one special part) by which the *Law of Nations* (together with the *Law of Nature*, and the *Divine Law*, as aforesaid) the *Justice* of *Princes* and *States*, and of their *Actions*, is as by the proper adequate *Rule* thereof to be *measured*. Whence it cometh to pass, that sundry things are by the

the *Rules* of *Politique Justice* allowed as lawful and just between *Princes*, which between *private men*, would by the *Rules* of meer *moral Justice*, be condemned (and that deservedly too) as unjust and unlawful: There are sundry *Arcana Imperii*, some arts and simulations for maintaining *Intelligence abroad* for concealing and disguising *Councils at home*, in the Instructions of *Embassadors* and managing of *Embassies*, in making *Alliances* and *Confederacies*, but especially in the pursuance and effects of War, which seem much to swerve from the ordinary Precepts of *moral Justice*; which yet *fide integrâ & circa dolum malum*) are by the consent of *Nations* allowed to be used, and so must be, or else there could be no secure living in the world in any *Society*, that saying of his *Atque ipsa utilitas justi prope mater & æqui*, had somewhat of truth and reason in it.

6. The *truth* and *reasonableness* of what hath been said will appear (omitting many other) in these few Instances. *First*, when a *Town* is taken by the *Enemy*, by the *Law of Nations*, the spoil thereof falleth to the *Conqueror*, which if he give to the *Souldiery* to plunder (as usually is done) every *Souldier* thereby acquireth a *just Right* and *Dominion* in

in that which he can lay his hand on first, and take into his Possession. *Secondly*, It may sometimes concern a *Prince* or *State* in point of *Honour* or *Safety* to vindicate himself by *War*, for some wrong offered to his *Merchants*, or for some *Rudeness* or *Incivilities* done to his *Embassador* (for even these, in case *Reparation* be *demanded* and *denyed*, have been ever held *just causes* of *War*; (as *Amphitruo* in *Plautus* rendereth that as a sufficient reason of his War, *Nimis ferociter legatos nostros increpant*) in this case it is by the *Law of Nations* allowed him, not only to *fight* against the *Prince* himself, who yet only did the *wrong*, but to *waste* his *Country*, *fire* his *Towns* and *Villages*, and spoil thousands of his *innocent Subjects* of their *fortunes* and *lives* in pursuance of his *just revenge*; but if a *private Gentleman* wronged by his *Neighbour* should in like manner, in *revenge* of that *wrong*, *beat* his *Servants*, *vex* his *Tenants*, and seek his or their *undoing*, the *act* were palpably most *unchristian* and *unjust*. *Thirdly*, Since *potent Princes*, have for the most part, great *Ambitions*, (and *Ambition* is a boundless *lust*) it behoveth a *Prince* for his *own safety*, to have a watchful eye over the *Motions* and *Designs* of a *potent Neighbour*, almost as much

much as of a *declared Enemy*; and therefore *wise Princes* have ever been careful by all *just means* to ballance their *neighbour Princes* and *States* as near as they could; in such a proportion as might hinder the over-growth of any one above the rest: In order whereunto it hath been held *lawful* for a *Prince*, laying aside the consideration of the cause, to joyn in *Armes* with the *weaker*, for his assistance against his *Potent Adversary*, who else were likely in a short time to *swallow* him up, whereby he should become formidable and dangerous, as well to himself as to the other his *neighbour Princes* and *States*; upon which account alone, were there no other reason besides, it would be as just for all *Christian Princes* to compose their *own quarrels*, and to aid the *Venetian*, and *Hungarian*, *Persian*, or *Tartar*, against the *Turk*, as it is expedient and honourable for them so to do: but what is thus allowed *just* in the *waging* of *War* between *Princes*; if in a *wager* of *Law* a *private person* should attempt the like, *viz.* to assist with his purse and pains a Poor Man against a Rich without considering the equity of the *Cause*, the *Act* were (as in the former instance) palpably *unjust* and *unchristian*: Instances might be produced many more to

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the same effect were it needful, but these I think sufficiently evidence the *truth* of what I undertook to shew in this particular.

7. There are also sundry other *circumstances* considerable concerning the *condition* of the *person*, which may render the same *undertaking unlawful* to one, which yet may be *lawful* for another, or more or less *expedient* or *inexpedient* for one than for another, supposing both *private persons* and *Subjects*; as namely, whether he be a person of Honour and Estate, or a man of ordinary rank and fortune; whether a single man, or Married? if Married, whether he have the *consent* of his Wife or no? and whether such *consent* were a free and rational *consent* in the Wife, arising from a Judgment convinced of the fitness of the *undertaking*, or rather *wrung* from her by the importunity of the *Husband*, and her *facility* in *yielding* to the *potency* of his *desires* therein? whether the necessity of his *domestical Affairs*, and *Oeconomical Relations* will brook his *absence* for so long a time as must be spent in that Imployment; or will not rather require his *presence* and *care* for the *managery* thereof in the mean time? and an hundred other like *doubts* and *difficulties* meet to be taken into deli-

deliberation, and *unprejudicately* weighed against those other *probabilities* and *inducements* which at first kindled, and after fomented his desires, before he *imbarque* himself in that *Imployment*: and yet when all is done, it were safer for him (in my opinion) to *forbear* than to *proceed* in his *intentions*, unless he shall be assured, that he hath the *free allowance* of his *Sovereign*, thereunto either *expressed* (which would be the cleerest *warrant* for his *conscience*) or at leastwise upon very pregnant grounds of probability *presumed*.

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The CASE of

SCANDAL.

1. IN judging of *Cases* of *Scandal*, we are not ſo much to look at the *event*, what that is, or may be; as at the *cauſe* whence it cometh; for ſometimes there is given *juſt cauſe* of *Scandal*, and yet no *Scandal* followeth, becauſe it is not taken: ſometimes *Scandal* is taken, and yet no *juſt cauſe given*; and ſometimes there is both *cauſe* of *Scandal given*, and *Scandal* thereat *taken*: but no man is concerned in any *Scandal* that happeneth to another, by occaſion of any thing *done* by him; neither is *chargeable* with it, farther than he is *guilty* of having *given it*: If then we *give Scandal* to others, and they *take* it not, we are to bear a ſhare in the *blame* as well as *they*, and that a *deeper ſhare* too, (*Væ homini, Wo to the man by whom the offence cometh*, Matth. 8. 7.) but if they *take Offence* when we give none, it is a thing we cannot *help*, therefore the whole *blame* muſt lie upon them; wherefore if at any time any *doubt* ſhall ariſe in the *Caſe of Scandal*,

how

how far forth the *danger* thereof *may*, or *may not oblige us* to the *doing* or *not doing* any thing *proposed*, the *Resolution* will come on much the *easier*; if we shall but rightly understand, what it is to *give Scandal*, or how many waies a man may become guilty of *scandalizing another* by his *example*. The waies (as I conceive) are but these *four*.

2. The *first* is, when a man doth something before another man, which is in it self *evil*, *unlawful*, and *sinful*; in which *Case*, neither the intention of him that *doth it*, nor the *event*, as to him that seeth it done, is of any *consideration*; for it mattereth not whether the doer had an intention to draw the other into sin thereby, or not: neither doth it matter whether the other were thereby induced to commit sin or not: the *matter* or *substance* of the *action* being *evil*, and *done* before others, is sufficient to render the *doer guilty* of having *given Scandal*, though he had neither any intention himself so to do; nor were any person *actually scandalized* thereby; because whatsoever is in it self, and in its own nature evil, is also of it self, and in its own nature *scandalous*, and of *evil example*. Thus did *Hophni* and *Phineas* the Sons of *Eli*, give *Scandal* by their wretched

wretched profanenes and greedines about the *Sacrifices* of the *Lord*, and their *vile* and *shameles* abusing the *Women*, 1 *Sam.* 2. 17. 22. And so did *David* also give great *Scandal* in the *matter* of *Uriah*, 2 *Sam.* 12. 14. Here the *Rule* is, *Do nothing that is evil, for fear of giving Scandal.*

3. The *second* way is, when a man doth something before another, with a *direct* intention and *formal purpose* of drawing him thereby to commit sin; in which Case, neither the matter of the *action*, nor the *event* is of any *consideration*, for it maketh no difference (as to the sin of *giving Scandal*) whether any man be *effectually enticed* thereby to commit sin, or not; neither doth it make any difference, whether the thing done were in it self unlawful or not, so as it had but an appearance of evil; and from thence an *aptitude* to *draw* another to do that (by *imitation*) which should be *really* and *intrinsecally evil*, the *wicked intention* alone, (whatsoever the effect should be, or what means soever should be used to promote it) sufficeth to induce the guilt of *giving Scandal* upon the *doer*: This was *Jeroboam*'s sin, in setting up the *Calves* with a *formal purpose* and *intention* thereby (for his own *secular*

and

and *ambitious* ends) to *corrupt* the *purity* of *Religion*, and to draw the *people* to an *Idolatrous Worship*, for which cause he is so often *stigmatized* with it, as with a note of *Infamy*, to stick by him whilst the *World lasteth*, being scarce ever mentioned but with this addition, *Jeroboam the son of* Nebat *that made* Israel *to sin*. Here the Rule is, *Do nothing (good or evil) with an intention to give Scandal.*

4. The *third way* is, when a Man doth something before another, which in it self is not *evil*, but *indifferent*, and so according to the Rule of *Christian Liberty*, *lawful* for him to *do*, or not to *do*, as he shall see *cause* (yea, and perhaps otherwise *commodious* and *convenient* for him to *do*) yet whereat he probably *foreseeth* the other will *take Scandal*, and be occasioned thereby to do *evil*. In such Case, if the thing to be done, be not in some degree (at least prudentially) necessary for him to do; but that he might, without *great inconvenience* and *prejudice* to *himself*, and any *third person*, leave it *undone*, he is bound in *Charity* and *Compassion* to his *Brothers Soul*, (for whom Christ died) and for the avoiding of *Scandal* to *abridge* himself in the *exercise* of his *Christian Li-*

berty for that time so far, as rather to suffer some *inconvenience* himself by the not *doing* of it, than by *doing* of it to cause his *Brother* to *offend*; the very Case which is so often, and so largely, and so earnestly insisted upon by St. *Paul*, *Rom.* 14. 13, 21. and 15. 1, 3. 1 *Cor.* 8. 7, 13. and 9. 12, 22. and 10. 23, 33. Here the Rule is, *Do nothing that may be reasonably forborn, whereat it is like Scandal will be taken.*

5. The *last way* is, when a man doth something before another, which is not only *lawful*, but (according to the exegencies of present circumstances *pro hic & nunc*) very behoveful, and in some sort (prudentially) *necessary* for him to do; but foreseeth in the *beholder* a propension to make an *ill use* of it, and to take encouragement thereby to *commit sin*; if there be not withal a great care had to *prevent*, as much as is possible, the *Scandal* that might be *taken* thereat: for *Qui non prohibet peccare, cum potest jubet.* In such case the bare *neglect* of his *Brother*, and not using his utmost endeavour to prevent the evil that might ensue, making him *guilty* upon which Consideration standeth the *equity* of the *Judicial Law* given to the Jews *Exod.* 21. 33, 34. which ordereth, that if

case a man dig a *Pit* or *Well* for the use of his Family, and (looking no farther than his own conveniency) put no *cover* on it, but leave it *open*, whereby it happeneth his Neighbours Beast to *fall* therein, and perish, the *owner* of the *Pit* is to make it good, inasmuch as he was the *occasioner* of that *loss* unto his neighbour, which he might and ought to have *prevented*: In this last Case the thing is not (for the danger of the *Scandal*) to be *left undone*, supposing it (as we now do) otherwise *behoveful* to be done; but the *action* is to be ordered, and carried on by us, for the manner of *doing*, and in all Respects and Circumstances thereunto belonging, with so much *clearness*, *tenderness*, and *moderation*, and *wisdom*, that so many as are willing to take notice of it, may be satisfied that there was on our part a reason of just necessity that the thing should be done; and that such persons as would be willing to make use of our *example*, without the like necessity, may do it upon their own score, and not be able to *vouch* our *practice* for their *excuse*; even as the Jew that stood in need to sink a *Pit* for the service of his House and Grounds, was not (for fear his Neighbours Beasts should fall into it, and be drowned)

bound by the Law, to forbear the making of it, but only to provide a sufficient cover for it, when he had made it. Here the Rule is, *order the doing of that which may not well be left undone, in such sort, that no Scandal may, through your default, be taken thereat.*

6. I do not readily remember any *doubt* that can occur about the reason of *Scandal*, which may not be brought within the compass of these *four Rules*; and then the right applying some or other of these *Rules*, will give some furtherance towards the *resolution* of these *doubts*.

THE

The CASE of a BOND Taken in the KINGS Name:

Propoſed *July* 1658.

R. C. *Was* ſeized *in* Fee *of certain* Houſes *of ſmall Value, with the* Appurtenances; *and in the Year* 1635. *whiles* Owner *of the ſaid* Houſes, *he entreated* A. B. *to be his* Surety *for* One Hundred Pounds; *and continued the ſame at* Intereſt *till* 1639. *At which time he requeſted* A. B. *to* diſcharge *that* Bond, *and in* conſideration *thereof*, ſelleth *the ſaid* Houſes *to* A. B. *and his* Heirs *for ever*; *the ſaid* R. C. *alſo* buyeth *of a* Merchant *a parcel of* Goods; *the* Merchant *being a* Receiver *of ſome part of the late* Kings Revenue, *and under pretence of a* priviledge *thereby, taketh a* Bond *of the ſaid* R. C. *for the* payment *of* Two Hundred pounds *to himſelf, but in the* Name *of the late* King, *as if* indebted *to the* King; *and under that* pre-

tence, *procureth an* extent *upon the* Houſes *ſold to* A. B. *and maketh* ſeizure *thereof: Was* R. C. *ſeized of the ſame, when he* entred *into that* Bond.

The ſaid King, 1645. *publiſhed a* Proclamation, *wherein he declared, That the* taking *of ſuch* Bonds *was contrary to* His Intention, *and an* abuſe *of his* Prerogative, *and* prohibited *all ſuch* crafty Courſes, *as tending to the* Oppreſſion *of his* Subjects; *and it is to be* noted, *that the ſaid* Proclamation *was publiſhed* two years *before the* extent *was executed upon the* Houſes, *which nevertheleſs have been held under that* extent, *about* fourteen years, *which is beyond the* value *of the* Houſes.

The ſaid R. C. *died poor, the* Merchant *is dead alſo, without any* Child, *leaving an* Eſtate *behinde him of* Twenty Thouſand Pounds, *as is ſuppoſed; a great part* viſible *in* Lands, *as appeareth by his* laſt Will *upon* Record.

Advice of Council *at* Law *being taken, how the ſaid* A. B. *may be moſt* readily relieved; *he is directed to* Petition *the* preſent Supreme Power *to* pardon *the* Debt, *becauſe taken only in the* Kings Name, *when there is no* Debt *due to him from* R. C.

As

As to the Case Proposed.

1. I Am clearly of opinion, that the taking of *Bonds* in the *Kings Name*, to the meer behoof, and for the advantage of *private persons*, when there was such *Debt* really due to the *King*, was a *fraudulent* and *unjust act* from the beginning; for though it were not *actually forbidden*, and so might perhaps be valid enough in *foro externo*, till the issuing out of the Kings *Proclamation* in that behalf; yet was it in point of *Conscience* unlawful before, as being a *crafty course*: so refused by the King himself, and guilty of a *double injustice*, the *one* to the *King*, as an *abuse* to his *Prerogative*; the *other* to the *Subject*, as tending to their *oppression*, as by the *Proclamation* is recited, and that therefore.

2. Neither might the *Merchant*, whiles he *lived*, nor ought his *Executors*, now he is *dead*, to make advantage of the *Kings Name* used in that *Bond*; nor might he then, nor may they now, by virtue of the *Kings Prerogative*, or under the colour thereof, for the recovery of the said *Debt*, use any way to the prejudice or damage of the *Obligee*, or

of any *Purchaser* from him, other than such, as he or they might have used, in case the *Bond* had been taken in the *Obligee's* own Name, and not in the Kings.

3. If any *Proceedings* have been made already in pursuit of the *Debt*, due upon the said *Bond*, upon no other ground or colour, than the *Prerogative* aforesaid, whereby the said *A. B.* cometh to be endamaged or prejudiced more than otherwise he should have been; that the *Executors* ought to make him some considerable satisfaction for the same, although perhaps not to the full of what he hath suffered or would demand; yet in such a proportion, as to the judgment of indifferent persons (*in* a case wherein both parties, if they must do what is fitting and just, are sure to be losers) shall seem reasonable, in case the *Parties* cannot accord it between themselves.

4. Whereof, although through the *corrupt partiality* that is in most, I may truly say, all men more or less; I do not apprehend any great likelihood (for neither part *would*, and yet both must be *losers*) yet I should advise that tryal were made thereof in the first place, as the most kindly *Christian way* of growing to *peace*, if *parties* will be per-

perſwaded to meet about it, and can be made *Maſters* of their own *paſſions* when they are met; and ſurely matters might be eaſily brought to a *handſome concluſion*, if both *parties*, but eſpecially the *Executors*, who ſeem to have the advantage in *Law*, would not ſtand too much upon whatſoever advantage they may ſeem to have, but (as in *Conſcience* they ought) ſubmit both that, and all other circumſtances appertaining to the *buſineſs*, and indeed their whole *mutual demands*; to the final determination of that *tranſcendent Law*, which *Chriſt* hath eſtabliſhed as the only *Royal Standard*, whereby to meaſure the *equity* of our *actions*, in all our dealings towards others, *viz. To do as we would be done unto*; or which cometh to one, *Not to do that to another, which if he ſhould do to us* (ſuppoſing his Caſe was ours) *we ſhould think our ſelves ſcarce juſtly and fairly dealt withal.*

5. But laſtly, in caſe no ſuch accord can be made, either by *agreement of Parties*, or *mediation of Friends*, and that through the only default and ſtiffneſs of the *Executors*; *A. B.* having by all fair ways faithfully ſought and endeavoured the ſame, I ſee not but the ſaid *A. B.* may (but not to be done, but as his

his last refuge) seek to relieve himself according to the advice of his *Council*, by making his *Addresses* to such *Person* or *Personage*, as for the time being shall be in actual possession of the *Supreme Power*, and so in a capacity to over-rule the *Law* in a Case of that nature, by forgiving that *Debt* whereupon the King was colourably and fraudulently entituled for private advantage, to the prejudice of a *third person*, but was not at all a debt owing to him from the *Obligee*.

P. P. 17. *July*, 1658.

THE

The CASE of the ENGAGEMENT.

SIR,

I Have hitherto been very ſparing in delivering my opinion concerning the point now moſt in agitation, *viz. Of the lawfulneſs or unlawfulneſs of Subſcribing the Engagement:* conſidering the miſchiefs that muſt needs have followed, if it ſhould be once noiſed abroad, that I had given forth any determination in ſo tickle a point. I could not but foreſee on the one ſide, if I ſhould condemn it as utterly unlawful, how I ſhould be looked upon by thoſe that have all power in their hands, not as a refuſer only, but a diſſwader alſo of what they have thought fit to require: And on the other ſide, if I ſhould allow it in any caſe lawful, what ill uſe would certainly be made thereof by multitudes of people, apt to be ſo far ſcandalized thereby, as either to ſwallow it whole without chewing, (that is, reſting themſelves upon the general determination of the lawfulneſs to take it in hand over head, without due conſideration,

tion, either of the true meaning of it, or of other requisite cautions and circumstances) or else to conceive themselves by so engaging, to be for ever discharged from the bond of their former *Allegiance*.

Yet since by your Letter, and by sending your servant therewith on purpose so many daies journey, through unknown waies, and at this season of the year (especially as the weather hath proved since his coming forth) scarce passable, you have shewn your earnest desire to understand what my opinion is in this point; so great, both for difficulty and concernment; I could not think it fit, nor consistent with that civility which is to be used, especially towards Strangers, to send back your messenger without the return of some kind of answer: Wherein, albeit I shall not come up to the full, of what your Letter declareth to be your desire, *viz. In giving a particular Judgment and estimate of the Eight several Arguments therein proposed, and the additional* Quære *in the Postscript*: yet you shall find something tending towards your satisfaction therein, by touching upon those points (so far as the straits of time would suffer) wherein the difficulty of the whole business seemeth chiefly to consist.

First,

First then, it is to be considered, that *Allegiance* is a duty that every Subject, under what form of Government soever, by the Law of *Nature*, oweth to his Countrey, and consequently to the Sovereign Power thereof. For the very same Law (which we may call the *Law of Nature*, at least in a large acceptation) which inclineth particular men to grow into one civil body of a Common-wealth, must necessarily withal, imprint a sense, and tacite acknowledgment of such a duty of *Allegiance* in every inferior member of the body, unto the *Caput Communitatis*, or Sovereign Power, by which that Common-wealth is governed, as is necessary for the preservation of the whole body. So that the bond of *Allegiance* doth not arise originally from the *Oath of Allegiance*; as if those that had not taken the *Oath*, had a greater liberty to act contrary to the *Allegiance* specified in the *Oath*, than those that have taken it, have: or as if, in case the *Oath* should be quite laid aside, there should be no *Allegiance* due. But it is so intrinsecal, proper, and essential a duty, and (as it were) fundamental, to the relation of a Subject, *quâ talis*, as that the very name of a Subject doth, after a sort, import it; inso-

insomuch, that it hath thereupon gained, in common usage of speech, the stile of *Natural Allegiance*: Whence all these inferences will follow.

1. That the *bond* of *Allegiance*, (whether sworn or not sworn) is in the nature of it *perpetual* and *indispensable*.

2. That it is so inseparable, from the relation of a Subject, that although the exercise of it, may be suspended by reason of a prevailing force, whilest the Subject is under such force, (*viz.* where it cannot be imagined, how the endeavour of exercising it can be effectually serviceable to restore the Sovereign Power to the right owner, for the establishment of that Publick Justice and Peace wherein the happiness of Commonwealths consisteth) yet no outward force can so absolutely take it away, or remove it, but that still it remaineth vertually in the Subject, and obligeth to an endeavour (so soon as the force that hindered it is over) of actually exercising of it, for the advantage of the party, to whom of right it is due, and the advancement of the common good thereby, upon all fit occasions.

3. That no Subject of *England*, that either hath, by taking the Oaths of *Supremac*),

macy, or *Allegiance*, acknowledged; or that not having taken either Oath, yet otherwise knoweth, or believeth, that the *Sovereign Power* in *England*, to whom his *Natural Allegiance* is due, is *the King, his Heirs, and lawful Successors*, can without sinning against his Conscience, enter into any *Covenant*, *Promise*, or *Engagement*, or do any other *Act* or *Acts* whatsoever, whereby either to transfer his *Allegiance* to any other party, to whom it is not of right due, or to put himself into an incapacity of performing the duties of his *bounden Allegiance* to his lawful Sovereign, when it may appear to be useful and serviceable to him.

4. That therefore the taking of the late *Solemn League and Covenant*, by any Subject of *England* (notwithstanding the Protestation in the Preface, that therein he *had the Honour of the King before his eyes*; and that express clause in one of the *Articles* of it, wherein he swore, *The Preservation of the Kings Person and Honour*) was an act as clear contrary to the *Oath of Allegiance*, and the *Natural Duty* of every Subject of *England*; as the *Assisting of the King to the utmost of ones power* (which is a branch of the Oaths) and the assisting against any person what-

whatsoever, with his utmost power, those that were actually in Arms against the King (which was the very end for which that Covenant was set on foot) are contrary the one unto the other.

5. And that also for the same reason, no Subject of *England*, that hath taken the Oaths, and understandeth them, or is perswaded that the Sovereignty of this Realm doth of right belong to the King, his Heirs, and lawful Successors, can without sinning in like manner against his Conscience, take the *Engagement* now offered: if he so understand the words, wherein it is expressed, as if they did contain in them, and require of the Promiser, an acknowledgment that the Supream Power of this Realm, whereunto the Subjects owe their *bounden Allegiance*, is rightly vested in those persons that now exercise it; or as if they did import an utter abjuration, or renouncing of that *Allegiance* which was formerly held due to the King.

II. This being cleared, the next enquiry must be, Whether or no *the words of the Engagement* will reasonably bear such a construction, as to the understanding of a rational and conscientious man, may seem consistent

sistent with his *bounden duty* and *Allegiance* to his lawful Sovereign? Whereof (I think) there need be no great question made, if it be well considered.

1. That all expressions by words, are subject to such ambiguities, that scarce any thing can be said or expressed in any words, how cautelously soever chosen, which will not render the whole speech capable of more constructions than one.

2. That very many men, known to be well affected to the King and his Party, and reputed otherwaies both learned and conscientious (not to mention the *Presbyterians*, most of whom, truly for my own part, when we speak of learning and conscience, I hold to be very little considerable) have subscribed the Engagement; who in the judgment of Charity, we are to presume, would not so have done, if they had not been perswaded the words might be understood in some such qualified sense, as might stand with the duty of *Allegiance* to the King.

3. That (as you write) it is strongly reported and believed, that the King hath given way to the taking of the Engagement, rather than that his good Subjects should lose their Estates for refusing the same.

Which, as it is a clear evidence, that the King, and they who are about him, to advise him, do not so conceive of the words of this Engagement, as if they did necessarily import an abandoning of the *Allegiance* due to him: so 'tis (if true) a matter of great consideration towards the satisfaction of so many, as out of that fear only, have scrupled the taking of it. For the doing of that cannot be reasonably thought to destroy the Subjects *Allegiance*; which the King, who expecteth *Allegiance* from all his Subjects, advisedly, and upon mature deliberation alloweth them to do.

III. But all this being granted, that the words of the Engagement are capable of such construction; yet is not the Conscience thereby sufficiently secured, from justly scrupling at the taking thereof, unless it may yet further appear, that the Subject hath the liberty to make use of such a construction; which is in effect the *Quere* contained in your Postscript, *viz.* Whether upon supposition, that the words of the Engagement will bear more constructions than one, the subscriber may take it in his own sense, or is bound to take it in the imposers sense? or, Whether

it be necessary or expedient before he subscribe, to ask those that require his subscription, in what sense they require him to subscribe it? Upon the resolution of which *Quære*, since (as I conceive) the last resolution of the Judgment, wherein the Conscience is to acquiesce, doth principally depend; I shall endeavour to give you my thoughts therein, (wherein I acknowledg to have received much light and satisfaction from a Discourse written by a Learned, Judicious, and Pious friend, whereof I lately had the perusal, but for some reasons, not thought fit to be published) as distinctly, and clearly, as the time I have to do it in, will suffer.

1. *First* then, for a man that is required of another to give Faith by some *Oath*, *Promise*, or other *Engagement*, to take it in a sense of his own, manifestly different (even in his own apprehension) from the others meaning, sufficiently expressed by words, according to the common custome of speech, and the nature of the business which it concerneth, is so gross a conceit, that had not the impudence of the Jesuits, in maintaining the lawfulness of their Equivocations, and the sad experience of these late times, (wherein thousands have cheated themselves

in perjury, by thinking to avoid it) evidenced the contrary, it might well have been thought a thing incredible, that any man of common understanding, should suffer his reason to be so infatuated by his affections, as to be deceived thereby. For if such latitude of construction should be admitted in Promises, and other Obligations of that nature, intended for the Preservation of Faith amongst mankind, there would not remain any possible means, whereby for men to have assurance of one anothers meanings. Wherefore I take that for a clear truth, That all Promises, and Assurances, wherein Faith is required to be given to another, ought to be understood, *ad mentem imponentis*, according to the mind and meaning of him to whom the Faith is to be given; so far forth as the meaning may reasonably appear, by the nature of the matter about which it is conversant, and such signification of the words, whereby it is expressed, as according to the ordinary use of speech amongst men, agreeth best thereunto. The reason whereof is, because the Faith so required to be given, is intended to the behoof, and for the interest of him that requireth it; namely, to the end he may have the better assurance from

him

him that giveth the faith, that what is promised shall be accordingly performed: which assurance he cannot have, if after his meaning, sufficiently declared by the words, it should yet be at the liberty of the Promiser to reserve another secret meaning in his own breast, differing there-from.

2. But *Secondly*, what if the Intention of the Imposer be not so fully declared by the words and the nature of the business; but that the same words may in fair construction be still capable of a double meaning, so as taken in one sense, they shall bind to *More*, and in another to *Less*? I conceive in such case it is not necessary, nor always expedient (but rather for the most part otherwise) for the Promiser, before he give faith, to demand of the Imposer, whether of the two is his meaning. But he may by the rule of Prudence, and that (for ought I see) without the violation of any Law of Conscience, make his just advantage of that ambiguity, and take it in the same sense which shall bind *to the Less*. And this I ground upon the very same reason as before; For sith the Faith to be given, is intended to the behoof of him, to whom it is given, it concerneth him to take care that his meaning be expressed in

such words as will sufficiently manifest the same to the understanding of a reasonable man. Which if he neglect to do, no Law of Equity or Prudence bindeth the Promiser by an over-scrupulous diligence to make it out, whereby to lay a greater obligation upon himself than he need to do.

3. But then *Thirdly*, if it shall happen (as often it cometh to pass, when we have to deal with cunning men, and may possibly be the Case now, and undoubtedly was so in the business of the *Protestation*, when the time was) That he that requireth the faith to be given, do of purpose so contrive the words, that there may be left an ambiguity and latitude of sense therein; yea, and that it be very probable, and in a manner apparent, (upon the consideration of the point of interest, or other strong presumptions arising from circumstances or otherwise) even to the apprehension of the Promiser himself, that he hath some farther reach in requiring that promise from him, some more remote and secret intention then he is willing to discover. In that case what is to be done? I answer, That the Promiser in such case is no ways obliged in giving his Faith, to take notice of any secret intention, but is at liberty

berty to make use of that Latitude of sense, which the other did rather chuse to leave undetermined, than to restrain, and so to turn the others cunning dealing to his own best advantage, by taking it in the more favourable construction; and that which bindeth *to less*. For it is *the declared intention* only, (*viz.* That which the words, according to the common use of speech, do in relation to the nature of the subject, most naturally and properly represent to the understanding of reasonable men, when they hear them) and not *to* the remote, secret, and *reserved intent*, which the Promiser is obliged unto. The reason whereof is manifest; because he that requireth Faith to be given from another, by words of his own contriving, is ever presumed so to have determined the sense thereof, in the contrivance of the words, as may sufficiently declare what he intendeth the Promiser should assure him to perform. If therefore he have not so determined the words, as to signifie *the More*; it is in all reason to be presumed, that he intended to oblige him but to *the Less*. For being at liberty to make his own choice of words, whereby to express his own meaning; who can think otherwise, but that he

would make the choice with respect to his own Interest? And therefore, though he might have a secret desire, which he is loth to discover, that the Promiser should be bound to *the More*, and would be marvellously well pleased, that he should so understand the words, as if they intended to bind him to *the More*: Yet since it had been so easie a matter for him, by adding or altering a few words, to have declared that intent, if he had thought it conducible to his own ends; it will be presumed also, that it was out of respect of self-interest, that he forbare so to do, and chose rather to leave his meaning, in such general words, as will not exclude the sense, which bindeth but to *the Less*; and consequently that his declared intent obligeth to no more but to *the Less only*.

IV. To bring the matter yet closer, and to put it up to the present Cases, there are yet two things more to be done.

First, To shew what the different constructions (*the highest*, I mean, and *the lowest*) the words of the Engagement are fairly capable of.

And *Secondly*, to find as well as we can, whether

whether of the two is more probably the meaning intended by the Imposers, to be declared by the words.

The words are these:

I do promise to be true and faithful to the Common-wealth of England, *as it is now established without King or Lords.*

Wherein there are sundry ambiguities.

1. *First*, In the words *true and faithful*; by which may be intended, either the promise of that *Fidelity* and *Allegiance* (which was formerly acknowledged to be due to the King, *&c.*) to be now performed to those that are presently possessed of the Supream Power, as their right and due. Or else that promise *of such a kind of fidelity*, as Captives taken in the War, promise to their Enemies, when they fall under their power; *viz.* to remain true Prisoners of War, and so long as they are in their power, not to attempt any thing to their destruction.

2. *Secondly*, In the word *Common-wealth*, by which may either be meant, those persons who are the *prevalent party* in this Kingdom,

dom, and now are poſſeſſed of, and do exerciſe the Supreme Power therein, as if the right of Soveraignty were veſted in them: Or elſe, the *whole entire Body of the Engliſh Nation*, as it is a Civil Society or State within it ſelf, diſtinguiſhed from all other Foreign Eſtates. Taken in the former ſenſe, the fidelity promiſed to the *Common-wealth*, relateth directly to the upholding of that party who are the preſent Governors *de facto*, and imports ſubjection to them as *de jure*: But taken in the latter, it relateth to the ſafety of the Nation, and importeth no more as to the preſent Governors, but to live peaceably under them *de facto*, and to yield obedience to them in things abſolutely neceſſary for the upholding Civil Society within the Realm; ſuch as are the defence of the Nation againſt Foraigners, the furtherance of Publick Juſtice, and the maintenance of Trade.

3. In the words *as it is now eſtabliſhed, &c.* which may be underſtood either by way of approbation of what hath been done by way of aboliſhing Kingly Government, and the Houſe of Peers, and placing all Authority and Power within the Realm, in the Houſe of Commons. Or elſe [illegible] only, as a clauſe

clause simply and barely reciting what manner of Government it is that this Nation *de facto*, is now under; *viz.* a Government by the Commons only, without either King or House of Lords.

"Which Ambiguities considered, The "*highest construction* that can be reasonably "made of the words, is to this effect. I "acknowledge the Sovereign Power of this "Nation, whereunto I owe Allegiance and "Subjection to be rightly stated in the House "of Commons, wherein neither King nor "Lords (as such) have, or henceforth ought "to have any share; And I promise that I "will perform all Allegiance and Subjection "thereunto, and maintain the same with my "fortunes and life to the utmost of my "power.

And the *lowest construction* that can be reasonably made of the same words, is to this effect: "Whereas for the present, the Su-"preme Power in *England*, under which "Power I now am, is actually possessed and "exercised by the House of Commons, "without either King or Lords; I promise "that so long as I live under that power "and protection, I will not contrive or at-"tempt any act of hostility against them:

"but

" but living quietly and peaceably under " them, will endeavor my self faithfully in " my place and calling, to do what every " good member of a Common-wealth " ought to do for the safety of my Country, " and preservation of Civil Society therein.

V. Now cometh in to be considered in the last place the great Question, whether of the two constructions it is, (*That* which bindeth to the *Most*, or *This* which obligeth to the *Least*, the words can well bear) that the formers of the Engagement did rather intend to declare by these words. They that think *the former*, want not probability of reason to ground their perswasions upon. For they consider, that those who are presently possessed of the Supreme Power, are not minded to part with it if they can hold it. And that the likeliest way to hold it is, if they can possibly bring the whole people of *England*, or at least the far greatest part thereof, to acknowledge that they are rightly possessed of it, and to promise Subjection and Allegiance to them as such. And that therefore the Engagement, being purposely devised and set on foot, as the fittest engine to expedite that work, must in all reason intend to oblige so far. Which being so contrary to

their

their Judgment and perſwaſion, concerning the duty and Oath of Allegiance, I cannot blame thoſe that ſo underſtand the words of the Engagement, if they abominate the very thought of taking it.

But there wanteth not great probability of Reaſon on the other ſide, to induce us to believe that the latter and lower ſenſe is rather to be deemed the immediate, and declared intent of the Impoſers, whatſoever cauſe of ſuſpition there may be, that the former meaning may be more agreeable to their *ſecret, reſerved, and ultimate intent*; between which two, if there be any difference (as it is not impoſſible but there may be) the Engager is not concerned in it, or not yet: the Equivocation, if there be any in that, muſt be put upon the Impoſers, not on the Promiſers ſcore. For thus believing, there are amongſt others theſe Probabilities.

1. That many prudent and conſciencious men of the Royal Party, as well Divines and Lawyers, as others, have thus underſtood it, who we preſume would not for any outward reſpect in the world have taken it, if they had conceived any more to have been intended in it.

2. That it hath often been affirmed, both pub-

publickly and privately in several parts of the Kingdom (if we may believe either common fame, or the reports of sundry credible particular persons) by those that have perswaded or pressed others to subscribe; that the same is the very true intent and meaning of it, and no other.

3. That if the Imposers had been minded to have declared an intent of binding *to more*, they might easily have framed the words so as not to be capable of a construction binding *to Less*.

4. That (as is also credibly reported) whilst the form of words was under debate, the opinion of those that would have had it set higher, was not followed, as held unseasonable; and the vote carried, for the more moderate expression wherein it now standeth.

5. That the Imposers, intending by the Engagement to secure themselves, especially against the designs and attempts of those men, who they knew (well enough) held them for no other than Usurpers, must be in reason supposed to require no more assurance of them by the Engagement, than such as may and is usually given to Usurpers; which is, not an acknowledgment of their title,

title, and a promise of Allegiance, but meerly a promise of living quietly, so long as they are under their power, and enjoy their protection.

6. That it is a received Maxim of Political prudence, for all new Governors, (especially those that either introduce a new form of Government, or come in upon a questionable title) to abstain from all harsh proceedings, even against those whom they know to be evil affected to their Power, and not so much as to exasperate them (though it be in the power of their hands to destroy them) especially in the beginning of their Government; but rather to sweeten them into a better opinion of their persons, and to win upon them by Acts of Grace and Oblivion (for *Remissius imperanti melius paretur.*) So as they may have but any tolerable kind of assurance from them in the mean time, of living quietly and peaceably under them. We have no reason therefore to believe that the Imposers of this Engagement, who have acted the parts of the greatest Politicians, so perfectly and successfully hitherto, as to possess themselves so fully of the Supream Power of so great and flourishing a Kingdom,

Senec. 1. De Clem. 24.

dom, in so few years, would be so impolitick as not to proceed by the same rules, that all wise and successful persons have ever practised in the managing, and for the establishing of an acquired power.

VI. Out of all these premises together (weighing my Positive conclusion, either Affirmative or Negative, touching the Lawfulness or Unlawfulness of subscribing *in universali*) I shall declare my opinion only in these few following particulars.

1. That it is not lawful for any man to take the Engagement with a resolution to break it.

2. That therefore, whosoever thinketh the words of the Engagement do contain a promise of any thing which it is not lawful for him to perform, cannot take it with a good conscience.

3. That whosoever so understandeth the words of the Engagement, as if they did oblige him to any thing contrary to his Allegiance, or render him unable to act according thereunto, upon any seasonable emerging occasion, cannot with a good conscience take it.

4. That if any man for any temporal benefit,

nefit, or avoiding any temporal damage, shall take the Engagement with a doubting conscience (that is, before he be perswaded in his Judgment, upon some probable ground of reason, that it is lawful for him so to do) he sinneth therein.

5. That if any man after a serious desire of informing himself as rightly as he can, what are the duties of his *Allegiance* on the one side, and what is most probably the meaning intended by the words of the Engagement on the other side, shall find himself well satisfied in this perswasion, that the performance in the mean time of what is required by the Engagement so understood, is no way contrary (for any thing he can discern for the present) to his bounden *Allegiance*, so long as he is under such a force, as that he cannot exercise it; and likewise, that whensoever that force is so removed from him, or he from under it, as that he hath power to act according to his *Allegiance*, the Obligation of the Engagement of it self determineth and expireth: and out of these considerations, rather than suffer extreme prejudice in his person, estate, or necessary relations, shall subscribe the Engagement; since his own heart condemneth him not, neither will I.

Sir, I have now two requests to you, which I doubt not but you will think reasonable. The one, that whatsoever use you shall please to make of these papers, or any thing therein contained, for your own, or any friends satisfaction; yet you would not deliver any Copies abroad, lest they should come to be printed, as some other papers of mine, written in this manner, have been without my knowledg. This I desire, both in respect of the danger I might incur from the displeasure of the Potent Party, if any such thing should come abroad; as also lest upon the consideration of some things here hinted, they might think the words of the Engagement too light, and might thence take occasion to lay some heavier Obligation upon us, in words that should oblige *to More*. The other request is, that since I have not any other perfect Copy of what I now send you, you would procure it to be transcribed for me; and either the copy so transcribed, or these very papers rather, when you have transcribed them, transmit enclosed in a Letter, or by some Friend that will be sure to deliver them safe, with his own hands, to my Son ----- in *London*, to whom I shall write shortly, that he may expect them.

Sir,

Sir, I desire that my best respects may be presented, *&c.* ----- God endue us all with Grace and Wisdom fit for these evil times; to whose Mercy and Blessing commend us all, I rest,

Your Loving Friend

B.P. Dec.
20. 1650. *and Servant.*

The CASE of a RASH VOVV Deliberately Iterated.

The Case.

A Gentleman of good Estate, hath Issue one only Daughter, who placing her affections upon a person much below her rank, intendeth Marriage with him: The Father hearing of it, in great displeasure Voweth, and confirmeth it with an Oath, that if she Marry him, he will never give her a farthing of his Estate. The Daughter notwithstanding Marryeth him: After which the Father sundry times iterateth and reneweth his said former Vow, and that in a serious and deliberate manner; adding further, That he would never give her or any of hers any part of his Estate.

QUÆRE:

Whether the Fathers Vow so made, and so confirmed and iterated as aboveſaid, be Obligatory or not?

The Resolution.

My opinion is, *That the Vow was* Rash, *and is not at all* Obligatory.

1. The

1. The Question here proposed is concerning the obligation only; yet I deem it expedient to declare my opinion concerning the Rashness also: and that for two reasons. *First*, Because there seemeth in the proposal of the Case, to be some weight laid upon the after iterations, which were more deliberate, as if they added to the Obligation. And *Secondly*, Because I think it needful that the Vower should as well be convinced of the greatness of his sin in making such a Vow, for the time past, as satisfied concerning the present and future invalidity of it.

2. It is easie to believe, that the Gentleman, when he first made the Vow, was possessed with a very great indignation against his Daughter for her high and inexcusable disobedience to him in so very weighty a business. And truly it must be confessed, he had need to be a man of a very rare command over his own Spirit, and such as are scarce to be found one of a thousand, that could so contain himself within the bounds of reason, upon so just a provocation from an only child, (possibly some other aggravating circumstances concurring) as not to be transported with the violence of that passion,

into some thoughts and resolutions, not exactly agreeable with the dictates of right reason. It can therefore be little doubted, but the Vow made whilst the Reason was held under the force of so strange a perturbation, was a rash and irrational Vow.

3. Nor will these after-acts in confirmation of the first Vow, though having more of deliberation in them, be sufficient to redeem either it or themselves from the imputation of Rashness: understanding rashness in that latitude as the Casuists do, when they treat *de Voto temerario*, under the notion whereof they comprehend all such Vows as happen *per defectum plenæ & discussæ deliberationis*, as they express it; For it is to be considered, that when an injury, disobedience, or other affront is strongly resented, it many times maketh a very deep impression in the Soul, which though after the first *impetus* have a little spent it self, it begin somewhat to abate, yet it doth so by such slow and insensible degrees, that the same perturbation, which first discomposed the mind, may have a strong influence into all succeeding deliberations for a long time after. Even as after an acute Feaver, when the sharpest paroxysmes are over, and the malignity of the disease well

well spent, although the party begin to recover some degrees of strength; yet there may remain for a good while after such a debility in the parties, as that they cannot exercise their proper functions, but with some weakness more or less, till the party be perfectly recovered. Sith therefore the after-iterations on the first Vow in the present case, did proceed apparently from the rancor and malignity remaining in the mind, as the dregs and reliques of the same perturbation, from which the first Vow also proceeded: they must upon the same account (to wit, *per defectum plenæ deliberationis*) undergo the same censure of Rashness with the first. The same I say for the kind; some *difference* I grant there is for the degree: but *Magis & Minus non variant speciem*, we know. And the consideration of that difference is only thus far useful in the present Case, that the more deliberate those after-acts were, the more culpable they are, and the less capable either of Excuse or Extenuation; and consequently do oblige the party to so much the more serious, solemn, and lasting Repentance.

4. But concerning rash Vowes (in as much as the knot of the Question lyeth not there) it shall suffice to note these few points. *First*,

That every *Rash Vow* is a sin; and that upon its own score, and precisely as it is *Rash*, although it should not be any other way peccant. All acts of Religious worship (by the importance of the third Commandment) are to be performed with all due sobriety, attention, and advisedness: how much more than a *Vow?* which is one of the highest acts of worship, as being a sacred contract, where unto God himself is a party. See *Eccl.* 5. 1. *&c. Secondly*, That Rash Vows are for the most part, (besides the Rashness) peccant in their matter also; For they are commonly made in passion, and all passions are evil Counsellors, and Anger as bad as the first. *The wrath of Man seldom worketh the righteousness of God. Thirdly*, That a Rash Vow, (though to be repented of for the Rashness) may yet in some cases bind. As for example, A man finding himself ill used by a Shop-keeper, of whom he had formerly been accustomed to buy, voweth in a Rage that he will never buy of him again: This is a Rash Vow, yet it bindeth, because if the party had never made any such Vow at all, it had neither been unjust or uncharitable, (nor so much as imprudent) in him for to have done the same thing, which by his Vow he

he hath now bound himself to do. So if a man impatient of his ill luck at Cards, should Vow in a heat never to Play at Cards any more; he were in this case also bound to keep his Vow: because there neither is any sin in keeping it, nor can be any great necessity why he should break it. That therefore *Fourthly*, if at any time a *Rash Vow* bind not; the invalidity thereof proceedeth not meerly (nor indeed at all) from the Rashness (which yet is a very common error amongst men) but from the faultiness of it otherwise, in respect of the matter, or thing vowed to be done; when that which is so Vowed, is either so evil in it self, or by reason of circumstances, becometh so evil, that it cannot be performed without sin.

5. That therefore concerning the Vow in the present case, I declared my Opinion that it is not at all obligatory; it is done upon this ground (which is a most certain truth, and consented to by all) that *Rei illicitæ nulla obligatio.* If a man shall Vow any thing that is contrary to *Piety*; as if having taken offence at some indiscreet passage in a Sermon of his own Minister, he should vow that he would never come to the Church, or hear him Preach again,: Or that is contrary to

Justice,

Justice, as to take away the life of an innocent person, as those 40 persons that had vowed they *would neither eat nor drink till they had slain* Paul: Or never to make restitution to one whom he knew he had wronged: Or contrary to *Charity*; as to be revenged of, or never to be friends with one that had done him wrong: Or that is contrary to *Mercy*; as if having lost some money by lending to his friend, or having smarted by suretiship, he should vow never to lend any man money, or become surety for any man again. Let such a Vow, I say, as any of these, or any of the like nature, be made either rashly, or deliberately, and strengthened with Oaths and Imprecations, in the most direful and solemn manner that can be devised to tie it on the faster; yet it is altogether null and invalid as to the effect of Obligation. Whence those common sayings, *In male promissis rescinde fidem*; *ne sit juramentum vinculum iniquitatis*, &c. And we have a good president for it in *David*, after he had in a rage vowed the destruction of *Nabal*, and all that belonged to him; which vow, upon better consideration, he not only did not perform, but he blessed God also, for so providentially preventing the

per

performance of it, by the discreet demeanor and intervention of *Abigail*.

6. Now the reason why such vows are not binding, is very cogent and clear; Even because the party at such time as he is supposed to have made such Vow as aforesaid, lay under another (a former, and therefore a stronger) obligation to the contrary. And it is agreeable to all the reason in the World, that he who either by his own voluntary act, hath bound himself (where lawfully he might so do) or by the command of his lawful Superior (that hath a right to his service, and may exact obedience from him) is already bound to do, or not to do this or that; should not have power to disoblige himself therefrom, at his own pleasure, or to superinduce upon himself a new Obligation contrary thereunto: *Obligatio prior præjudicat posteriori*. As in the case of *Marriage*, a precontract with one party, voideth all after-contracts with any other: And if a man convey Lands to several persons, by deeds of several date, the first conveyance standeth good, and all the rest are void; and so in all cases of like nature. The Obligatory power thereof that is in *Vows*, *Oaths*, *Promises*, &c. is rightly said by some, to be a con-

constructive, not a *destructive* power. The meaning is, that such acts may create a new Obligation where was none before, or confirm an old one; but it cannot destroy an old one, or substitute another contrary thereunto, in the places thereof.

7. And the reason of this reason also is yet farther evident; for that *Quisquis obligatur, alteri obligatur.* When a man is obliged by any act, it is also supposed, that the obligation is made to some other party; to whom also it is supposed some right to accrue, by vertue of the said act obligatory; and that that other party is by the said act sufficiently vested in that said right, of which right he cannot be again devested and deprived by the meer act of him who instated him therein, and is obliged to perform it to him (unless himself give consent thereunto) without the greatest injustice in the World. Now God having a perfect right to our obedience, by his own obliging Precept, both for the not doing hurt to any man, and for the doing good to every man upon all fit opportunities: and this right also confirmed, and ratified by our own obligatory act in a solemn manner, before many witnesses at our Baptism, when we vowed to keep all God's Com-

Commandments: it were unreasonable to think that it should be in our power, by any after-act of ours to disoblige our selves from both, or either of those obligations. For then we might by the same reason free our selves from the obligation of that latter Act also (suppose an Oath, or Vow) by another subsequent Oath, or Vow; and from that again by another: and so play fast and loose, make Vows, and break them *in infinitum*. Evident it is therefore, that every vow requiring any thing to be done, which is repugnant to any office of *Piety*, *Justice*, *Charity*, or *Mercy*, which we owe either to God or man, is void, and bindeth not, because it findeth us under the power of a former contrary obligation, and hath not it self power sufficient to free or discharge us from the same.

8. The general rule thus cleared, it remaineth to examine concerning the particular Vow now in question, whether it be void upon this account or no? It will be found hard I believe to free this *Vow* from being repugnant to the rules of *Justice*, but impossible, I am sure, to reconcile it with the perfect Evangelical Law of *Charity* and *Mercy*. First, *Civil* and *Political Justice*, requireth

quireth that every man should obey the wholsome Laws of his Countrey, and submit himself to be ordered thereby. Now, put the case (which is possible enough) that the Daughters Husband should for lack of support from his Father-in-law, or otherwise, live and die in great want, leaving his Wife, and many small Children behind him, destitute of all means for their necessary sustenance. The Law would (as I suppose) in that case, upon complaint of the Parish, and for their ease, send the Daughter and her Children to the Father, and compel him to maintain them out of his Estate. Which order he ought to obey, nor can refuse so to do, without the high contempt of publick Authority, and manifest violation of the Civil Justice, notwithstanding his Vow to the contrary: The Law must be obeyed whatsoever becometh of the Vow; in that case therefore it is evident the Vow bindeth not.

9. But say that should not happen to be the case (which yet is more than any man can positively say before-hand) the Parent is nevertheless in *Moral Justice* bound to provide due maintenance for his Children and Grand-Children if he be able. Saint *Paul* saith that Fathers ought to lay up for the Chil-

Children. True it is, he speaketh it but upon the by, and by way of Illustration, in the handling of another argument, very distant from this business: but that doth not at all lessen the importance of it, such illustrations being ever taken *à notiori*, and from such common notions as are granted, and consented unto by all reasonable men. The same Apostle having amongst other sins of the Gentiles, mentioned disobedience to Parents in one verse, in the very next verse, mentioneth also want of natural affection in Parents. And the disobedience in the Child can no more discharge the Parent from the obligation of that duty he oweth to the Child, of affection, and maintenance, then the unnaturalness of the Parent, can the Child from the duty he oweth to the Parent, of *Honour* and *Obedience*. For the several duties, that by Gods ordinance, are to be performed by persons that stand in mutual relation either to other, are not *pactional* and *conditional*; as are the Leagues and Agreements made between Princes (where the breach in one part dissolveth the obligation on the other) but are *absolute* and *independent*; wherein each person is to look to himself, and the performance of the duty that

that lyeth upon him, though the other party should fail in the performance of his.

10. Something I foresee may be objected in this point, concerning the lawfulness of the Parents withdrawing maintenance from the Child (either in whole, or at least in part) in the case of disobedience. Which how far forth it may, or may not be done; as it would be too long to examine, so it would be of little avail to the present business. For it is one thing to with-hold maintenance from a disobedient Child for the present, and to resolve so to continue till he shall see cause to the contrary. And another thing to bind himself by Vow or Oath, never to allow him any for the future, whatsoever should happen. Let be granted whatsoever can be supposed pleadable on the Fathers behalf in the present case; yet there will still remain two particulars in this Vow, not easily to be cleared from being unjust. *First*, let the Daughters disobedience deserve all this uttermost of punishment from the offended Father; yet how can it be just, that for the Mothers fault, the poor innocent (perhaps yet unborn) Children, should be utterly, and irrecoverably excluded from all possibility of relief from their Grand-

father?

father? *Secondly*, It is (if not unjust, yet what differeth very little there-from) the extremity of rigid Justice; that any offender (much less a Son or Daughter) should for any offence, not deserving Death, be by a kind of fatal peremptory decree, put into an incapacity of receiving relief from such persons, as otherwise ought to have relieved the said offender, without any reservation either of the case of *extreme necessity*, or of the case of *serious repentance*.

11. However it be for the point of *Justice*; yet so apparent is the repugnancy of the *matter* of this *Vow*, with the Precepts of *Christian Charity* and *Mercy*; that if all I have hitherto said were of no force, this repugnancy alone were enough (without other evidence) to prove the unlawfulness, and consequently the invalidity, or unobligability thereof. It is (not an Evangelical Counsel, but) the express peremptory precept of Christ, that we should be *merciful*, even as our heavenly Father is *merciful*. And inasmuch as, not in that passage only, but for the most part wheresoever else the duty of *mercy* is pressed upon us in the Gospel from the example of God: God is represented to us by the Name, and under the notion of

a *Father*, although I may not lay much weight upon it, as a demonstrative proof; yet I conceive I may commend it as a rational Topick, for all that are Fathers to consider of, whether it do not import, that *mercy* is to be expected from a *father* as much as (if not rather much more then) from any other man; and that the want of *mercy* in a *Father*, is more unkindly, more unseemly, more unnatural then in another man: But this by the way, from that Precept of Christ, we learn that as there is in God a two-fold *mercy*, (a giving *mercy*, in doing us good, though we deserve it not, & a forgiving *mercy*, in pardoning us when we have done amiss:) so there ought to be in every good *Christian man* a readiness (after the example of God) to shew forth the fruits of *mercy* to others, in both kinds, upon all proper and meet occasions. So that if any person, of what quality or condition soever, shall upon any provocation whatsoever Vow that he will never do any thing for such or such a man; or that he will never forgive such or such a man: every such Vow, being *contra bonos mores*, and *contra officium hominis Christiani*, is unlawful, and bindeth not.

12. The offices of *mercy* in the former of those

those two branches, *viz.* of doing good, and affording relief to those that are in necessity, are themselves of so great *necessity* (as the case may be) that common humanity would exact the performance of them from the hand, not of a stranger only, but even of an enemy. If a stranger or an enemies Beast lie weltering in a Ditch, a helping hand must be lent to draw it out. The *Samaritans* compassion to the wounded Traveller in the Parable, *Luk.* 10. (There being a feud, and that grounded upon Religion, which commonly of all others, is the most deadly feud between the two Nations) is commended to our example, to the great reproach of the Priest and Levite, for their want of *Bowels* to their poor *Brother* of the same *Nation* and *Religion* with themselves; For the nearer the Relation is between the Parties, the stronger is the obligation of shewing *mercy* either to other. And there is scarce any relation nearer, and more obliging, then that of Parents and Children.

Our Saviour, who in *Matth.* 15. sharply reproved such vows, (though made with an intention to advance the Service of God, by inriching his Treasury (as hindred Children from relieving their parents, will not certainly approve of such vows (made without any o-

ther intention then to gratifie rage, and impatience) as hinder Parents from relieving their Children.

13. If to avoid the force of this argument, it shall be alledged, that the Daughters disobedience, in a business of so high concernment, might justly deserve to be thus severely punished, and that it were but equal that she, who had so little regard to her Father, when the time was, should be as little regarded by him afterwards. All this granted, cometh not yet up to the point of shewing *Mercy* according to the example of God. No Childs disobedience can be so great to an earthly Parent, as ours is to our heavenly Father: Yet doth he notwithstanding all our ill deservings continually do us good, communicating to our necessities, and causing his Sun to shine, and his Rain to fall, and infinite benefits in all kinds to descend upon mankind, not excluding the most thankless, and disobedient, and rebellious, from having a share therein.

14. And as for that other branch of *mercy* in *pardoning offences*, God giveth a rich example to all men, of their duty in that kind, (and to Fathers particularly (by his great readiness to pardon the greatest offenders, if they sincerely

cerely seek to him for it. If the Father in the Parable, *Luke* 15. had proceeded with such severity against his riotous Son, as to have vowed never to have received him again; he had been a very improper exemplar, whereby to shadow out the mercy of God to repentant sinners. Concerning the great importance of this duty, which is so frequently inculcated by Christ and his Apostles, and so peremptorily enjoyned, as not any other duty more. See *Matt.* 6. 4, 15. *Matt.* 18.21.---35. *Eph.* 4. 32. *Col.* 3. 13. *James* 2. 13. See also *Sirac.* 28. 1, *&c.*] I shall not need to say much; only as to the present *Case*, it would be considered, how perverse a course it is, and contradictory to it self, for a man to think himself obliged by one inconsiderate act, never to forgive his Daughter; when as yet he cannot beg pardon of his own sins, at the hands of God, (as he ought in his daily Prayer to do) without an expres condition of forgiving every body, and an implicit imprecation upon himself, if he do not.

15. But shall the Daughter that hath thus grieved the spirit of her Father, thus escape unpunished, and be in as good a condition as if she had never offended? And will not others

others be incouraged by her impunity, to despise their Parents after her example? There is much reason in this objection; and therefore what I have hitherto written, ought not to be understood, as if thereby were intended such a plenary indulgence for the daughter, as should restore her *in integrum*, but only that she should be made capable of receiving such relief from her Father, from time to time, as in relation to her necessities, and after-carriage, from time to time, should seem reasonable; and that his Vow ought not to hinder him from affording her such relief. But by what degrees, and in what proportion, the Father should thus receive his daughter into his fatherly affection, and relieve her, must be left to discretion, and the exigence of circumstances. Only I should advise (in order to the objection, *viz.* for examples sake, and that the daughter might be made, even to her dying day, and kept, sensible of her great and sinful disobedience to her Father) that the Father should cut off from his Daughter, and her Posterity, some meet portion of his Estate, (as perhaps a fifth part at the least; or if a fourth, or a whole third part, I should like it the better;) and by a solemn deliberate vow, dedicate

dicate the same to be yearly imployed in some pious and charitable uses. These times will afford him choice of objects, if God shall move his heart so to do; and by so doing, he may, *First*, in some sort redeem, and make a kind of satisfaction for his former *Rashness*, (not *Popishly* understood, and in regard of the *Justice of God*, but) in a *moral* sense, and in regard of the *World*, and his own *Conscience*. *Secondly*, it may be a good means to keep the Daughter in a continual fresh remembrance of her fault, that she may not, after a short and slight repentance (as in such cases too often it happeneth) forget the same; whereof she ought to have some remorse all the daies of her life. *Thirdly*, he shall thereby after a sort, perform his first vow; I mean according to the general intention thereof, and the rational part, (which was to make his Daughter repent her folly, and to smart for it:) the over-plus more than this, being but the fruit of rancor and perturbation. *Lastly*, he shall in so doing, doubly imitate God, our heavenly Father. *First*, when a rash or sinful act is made an occasion of a pious or charitable work, it beareth some resemblance of, or rather is indeed it self a gracious effect of that goodness and wisdom in God, whereby he bringeth light out of darkness, and good out of evil. *Secondly*, God Himself when he graciously pardoneth

doneth an high presumptuous sin, as he did *Davids* great sin, in the matter of *Uriah*, commonly layeth some lasting affliction upon the offender, as he did upon *David*, who after the sealing his pardon for that sin by *Nathan*, scarce ever had a quiet day all his life long. The reason whereof seemeth to be double, partly for admonition to others, that none presume to provoke God in like manner, lest they smart for it also in like manner; and partly for the good of the offender, that he may by the smart be brought to the deeper sense of his error, and be eftsoons reminded of it, lest he should too soon forget it.

Thus have I with very much ado, (in that weak condition I have been in, ever since the question came to my hands, and wherein I yet continue) declared my opinion fully concerning the whole business as far as I understand it. More largly I confess than I intended, or perhaps was needful; and with greater severity than (it may be) the parties will well like of. But truly I desired to do the part of a faithful Confessor, and the sores on both parts seemed to be such as were not to be touched with too gentle a hand: In the Daughter, an act of high disobedience, transported by the passion of inordinate love; and in the Father an act of great Rashness, transported by the passion of inordinate anger: both beyond the bounds of right Reason, and Religion; and both to be deeply repented of. Howsoever, I cannot be suspected to have written any thing, either out of favour for, or prejudice against either party; not having the least conjecture who the persons are that are concerned in the business; nor so much as in what part of the Nation they live. I shall pray that God would direct them both, to do that which may best serve to his glory, and bring the soundest comfort to their own souls. Amen.

FINIS.